

Exhibit GGG

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09:28:27 1 Judge Kennelly, December 7, 2016, 9:30 a.m. call and trial
09:30:47 2 continued.

09:39:25 3 THE CLERK: Case number 10 C 1168, U.S. v. Fields.

09:39:38 4 THE COURT: Good morning.

09:39:39 5 MR. LOEVY: Good morning, your Honor. Jon Loevy,
09:39:41 6 Steve Art, Anand Swaminathan, and Candace Gorman for the
09:39:45 7 plaintiff Nathson Fields.

09:39:46 8 MR. NOLAND: Dan Noland, Terry Burns and Paul
09:39:49 9 Michalik for the city and Mr. Murphy.

09:39:51 10 MR. KULWIN: Good morning, your Honor. Shelly Kulwin
09:39:53 11 and Rachel Katz for Dave O'Callaghan.

09:39:57 12 THE COURT: Three things I want to deal with. There
09:40:01 13 is a motion regarding billing information for one of the
09:40:04 14 defense experts, Mr. Murray. If I'm understanding this right,
09:40:09 15 he testified in the deposition about how much work he had done
09:40:13 16 up to that point in time, he testified about his hourly rate,
09:40:16 17 he said he hadn't yet sent a bill and now you've got an email
09:40:19 18 which basically says he's done another X number of -- not an
09:40:25 19 email but at least a verbal statement that he's done X
09:40:28 20 additional number of hours and still hasn't sent a bill is
09:40:31 21 that right?

09:40:32 22 MR. ART: Right. So all we are missing is Roberts
09:40:36 23 and noble.

09:40:36 24 THE COURT: So it's not about Murray. It's the other
09:40:38 25 two.

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09:40:39 1 MR. ART: We understand that Murray hasn't issued a
09:40:41 2 bill and we understand the hours and we can do the math. It's
09:40:45 3 the other ones.

09:40:46 4 THE COURT: What about the other two?

09:40:49 5 MR. BURNS: In regard to noble, Jeff noble, he is
09:40:52 6 bringing that information for counsel, so we will have that.

09:40:55 7 MR. LOEVY: Thank you.

09:40:56 8 MR. BURNS: As soon as he arrives here in the
09:40:58 9 building, we can provide that to them. I will make copies of
09:41:01 10 it.

09:41:02 11 MR. ART: Thank you.

09:41:02 12 MR. MICHALIK: And Roberts, I think most of that
09:41:04 13 information was previously produced in response to a subpoena
09:41:06 14 and I can just.

09:41:08 15 THE COURT: You will need to update it, in other
09:41:10 16 words, like how many more hours.

09:41:11 17 MR. MICHALIK: I can tell them approximately what the
09:41:13 18 total is.

09:41:13 19 MR. LOEVY: Thank you, your Honor.

09:41:14 20 THE COURT: That's all good enough. That's item
09:41:16 21 number one.

09:41:17 22 Item number two is Mr. Maue. Look, you're right on
09:41:24 23 the plaintiff's side, it's not a deposition, but it's as good,
09:41:30 24 and I think that, you know, there's this potential disconnect
09:41:36 25 between rule 32-A 4 and Rule 80.04 of rules of evidence, but I

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09:41:42 1 think that under the circumstances, you know, the rules don't
09:41:46 2 necessarily contemplate you're going to be doing a trial over
09:41:49 3 and the witness is going to be testifying the same thing. I
09:41:52 4 think the trial testimony qualifies under 32-A 4 B and I think
09:41:56 5 a sufficient showing has been made. You can do the
09:41:59 6 deposition.

09:41:59 7 And then the third issue, so the motion to admit
09:42:03 8 Maue's prior testimony is granted. That's 1151. Pam, the
09:42:08 9 motion to compel is going to say 1155 is moot based on the
09:42:12 10 statements made in court.

09:42:13 11 And then the other one has to do with the
09:42:15 12 supplemental -- two supplemental reports for Murray, so can
09:42:18 13 somebody address that on the defense side.

09:42:20 14 MR. NOLAND: Yes. The first point was the hatchet
09:42:23 15 case. It was a case that we had requested from the
09:42:25 16 prosecutors back in February. They couldn't find it
09:42:29 17 initially. I then located it, reviewed it for privilege and
09:42:32 18 produced it in October in advance of the deposition of the
09:42:36 19 prosecutor who we had identified as relevant to the case, a
09:42:39 20 guy by the name of Ted logger well.

09:42:42 21 THE COURT: They had it.

09:42:44 22 THE COURT: The deposition of who?

09:42:45 23 MR. NOLAND: Ted logger well.

09:42:48 24 THE COURT: Did you have it for the deposition of
09:42:50 25 Mr. Murray.

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09:42:51 1 MR. NOLAND: Mr. Murray didn't have it either.

09:42:54 2 Mr. Murray looked at the documents and plaintiff had claimed

09:42:57 3 that 23 pages were missing from the criminal defense file. In

09:43:00 4 fact 22 out of the 23 pages are included and that there are

09:43:03 5 discovery receipts establishing that they were produced. So,

09:43:06 6 Judge, we would submit that this was out of our control. We

09:43:10 7 had requested it in time. It's a pretty simple fact, it

09:43:12 8 either is or isn't in there. We didn't plan on going into

09:43:16 9 details on this case with Mr. Murray, so we weren't going to

09:43:20 10 be utilizing it as just part of the general documents that he

09:43:25 11 reviewed and relied upon. So I don't think the case would

09:43:28 12 even be on my direct mentioned specifically.

09:43:31 13 THE COURT: What about the second thing?

09:43:32 14 MR. NOLAND: And the second thing is response to

09:43:34 15 Andrea Lyon's testimony last week. The Court will recall that

09:43:41 16 plaintiff's disclosure of Andrea Lyon was less than really

09:43:42 17 fulsome.

09:43:42 18 THE COURT: No, that's exactly wrong. I mean, I

09:43:46 19 concluded at a sidebar that she had been properly disclosed.

09:43:50 20 It was on the spreadsheet right there next to that file.

09:43:53 21 MR. NOLAND: What I am talking about is with respect

09:43:56 22 to opinions about the significance of a document in that case.

09:43:59 23 She offered opinions that this particular page was an

09:44:05 24 alternative suspect in the case, and that was something that

09:44:07 25 took us by surprise. Mr. Murray had stated in his report that

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09:44:11 1 the documents at issue, it's a handwritten note, was an RD
09:44:15 2 number, a different RD number so he thought that the document
09:44:20 3 was misfiled. After Ms. Lyon gave that opinion testimony last
09:44:24 4 week which we were unaware of, we obtained the police report
09:44:29 5 from the police department, we gave that to Mr. Murray, he
09:44:32 6 looked at it and we disclosed a supplemental report last night
09:44:35 7 to the plaintiffs in which he explains that it was traffic
09:44:41 8 accident that occurred two days after the murder, the two
09:44:45 9 individuals involved, and they had a little dispute after the
09:44:49 10 fender-bender. The two individuals involved were contacted by
09:44:54 11 the detectives, a car was left and a month later the
09:45:00 12 detectives talked to them, talked to him about the case and
09:45:04 13 that didn't go anywhere. There is no indication whatsoever
09:45:06 14 that it had any indication to that /KHRA*Z homicide at issue
09:45:12 15 and on its face it appears that it's unrelated. We would
09:45:16 16 simply ask to respond to Ms. Lyon's opinions that we learned
09:45:19 17 last week.

09:45:20 18 THE COURT: So under rule -- first of all, both of
09:45:22 19 these disclosures are untimely. So that gets you to Rule 37 C
09:45:27 20 which requires me to determine whether it substantially
09:45:31 21 justified or harmless.

09:45:33 22 The first one, the one relating to the file that you
09:45:38 23 got late from the state's attorney's office, it's not harmless
09:45:44 24 because it came after the deposition and too late for the
09:45:48 25 plaintiff to be able to inquire of Mr. Murray on it.

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09:45:51 1 The second one is not substantially justified. You
09:45:54 2 could have taken Ms. Lyon's deposition. You would have
09:45:57 3 learned this before. The motion is granted. The supplemental
09:46:00 4 opinion is excluded. There is a matter I need to talk to you
09:46:02 5 about at sidebar.

09:46:08 6 (The following proceedings were had at sidebar:)

09:46:11 7 THE COURT: I will have Pam make copies of this for
09:46:17 8 you, but it's -- I'm for the moment putting a protective order
09:46:21 9 on it. I am just going to read it. This is from a juror
09:46:24 10 named Brenda. I didn't get a chance to look at which one that
09:46:24 11 is, but you'll figure it out.

09:46:27 12 I'm just going to read it. This may just be a -- I
09:46:29 13 think she means coincidence, but she says quidinkidink,
09:46:33 14 q-u-i-d-i-n-k-i-d-i-n-k, quidinkidink. This may just be a
09:46:42 15 coincidence, but I haven't seen or been tagged in over four
09:46:45 16 years. I don't really know what gangs are what, but this was
09:46:48 17 done sometime between Monday after 10:00 p.m. and Tuesday
09:46:52 18 5:30 a.m. My husband told me about it last night. Otherwise,
09:47:00 19 I would have told you yesterday. I have been going to work
09:47:02 20 after court every day and getting home -- this is the same
09:47:05 21 juror that had the thing about seeing clients -- going to work
09:47:08 22 after court every day and getting home between 9:30 and
09:47:11 23 10:00 p.m., 11:00 p.m. last night, so no real time to talk. I
09:47:13 24 hope this doesn't have to do with the case.

09:47:15 25 And then she attaches these three pictures. This was

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09:47:18 1 her garage. This is on the neighbor's garage door, so
09:47:22 2 directly across. So if she opens her garage door, she sees
09:47:25 3 it. It's across the alley. This is on the door across the
09:47:28 4 alley right outside her bedroom window.

09:47:33 5 I mean, actually, they're kind of different styles.
09:47:37 6 But it kind of looks like the neighborhood has been hit, or at
09:47:40 7 least the block has been hit.

09:47:42 8 I need you to think about and we will address it at
09:47:47 9 lunch what, if anything, I should do or say.

09:47:54 10 MR. KULWIN: I just wanted to let you know I filed
09:47:55 11 something this morning.

09:48:04 12 THE COURT: The U.S. Attorney's Office internal
09:48:05 13 documents found at MCC Longley called the pros memo should be
09:48:08 14 admitted into evidence.

09:48:10 15 MR. KULWIN: We were going to talk about this at
09:48:12 16 lunch, I thought.

09:48:14 17 THE COURT: Okay. Fine.

09:48:19 18 (The following proceedings were had in open court outside
09:48:21 19 the presence and hearing of the jury:)

09:48:21 20 THE COURT: So anything else before we get the jury
09:48:26 21 out here?

09:48:27 22 MR. LOEVY: Not from the plaintiff, your Honor.

09:48:29 23 THE COURT: So we were where?

09:48:37 24 MR. LOEVY: We were reading Gerald Morris.

09:48:38 25 THE COURT: We are going to read the 2009.

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09:48:40 1 MR. LOEVY: Exactly.

09:48:41 2 THE COURT: Let's get the jury on out then. My goal,
09:48:46 3 by the way, is to get you a draft of the jury instructions by
09:48:50 4 the end of the day today. And not to interfere unduly with
09:48:58 5 Mr. Kulwin's haircut appointment, but we may be -- I may ask
09:49:02 6 you to come in on Friday at 9:00 to do a little bit of work on
09:49:06 7 those between 9:00 and 10:00.

09:49:08 8 MR. KULWIN: I'll let him know. And, Judge, we are
09:49:11 9 just going to need the ELMO at one point during this just to
09:49:14 10 give you a head's up.

09:49:15 11 THE COURT: Thanks. My other intention is to tell
09:49:21 12 the jury, talk to the jury at the end of the day about
09:49:27 13 scheduling, timing, about Friday morning and we will also have
09:49:32 14 a better idea then when we are going to end. I'll caucus with
09:49:36 15 you first. My sense is that we will finish Monday, but it's
09:49:39 16 hard to say.

09:49:40 17 MR. LOEVY: It's not out of the question this week,
09:49:42 18 your Honor, it's really not.

09:49:44 19 THE COURT: Yeah, it is.
09:49:45 20 (The jury enters the courtroom.) Is

09:50:09 21 THE COURT: Okay. Everybody can have a seat. Good
09:50:11 22 morning.

09:50:11 23 So we're going to pick up where we left off and that
09:50:14 24 is with we are going to start the reading of Gerald Morris'
09:50:20 25 testimony from the 2009 criminal trial and again this is not

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09:50:24 1 the actual witness, not the actual lawyer, lawyers. At some
09:50:29 2 point, is he going to come down and point to stuff?

09:50:33 3 MS. KATZ: He may.

09:50:34 4 THE COURT: All right. You can go ahead, Ms. Katz.

09:50:36 5 MS. KATZ: For the record, this is March 25th, 2009,
09:50:38 6 and this is the direct examination by the prosecutor
09:50:41 7 Mr. Sexton.

09:50:42 8 - - -

09:50:42 9 GERALD MORRIS, DIRECT EXAMINATION, PREVIOUS TESTIMONY

09:50:42 10 BY MS. KATZ:

09:50:44 11 Q. Gerald, in a nice loud voice could you introduce yourself
09:50:47 12 to the Court and spell your last name for the benefit of the
09:50:50 13 court reporter?

09:50:50 14 A. Gerald Morris, Gerald Morris.

09:50:53 15 Q. Mr. Morris, how old are you?

09:50:56 16 A. 47.

09:50:57 17 Q. Did you have any children?

09:50:59 18 A. Yes.

09:51:00 19 Q. How many children do you have?

09:51:01 20 A. I have five kids, well, four now.

09:51:04 21 Q. Sir, directing your attention back to April of 1984, do
09:51:09 22 you recall where you were living?

09:51:10 23 A. I was living at 39th, 706 building.

09:51:13 24 Q. Is that the address 706 East 39th Street in the City of
09:51:18 25 Chicago?

09:51:18 1 A. Yes.

09:51:19 2 Q. The County of Cook?

09:51:20 3 A. Yes.

09:51:20 4 Q. Is that a high rise project building?

09:51:25 5 A. Yes.

09:51:26 6 Q. How long had you been living there?

09:51:27 7 A. A couple months.

09:51:28 8 Q. Who were you living there with?

09:51:29 9 A. The Langston family, my girlfriend Sandra Langston, her

09:51:33 10 mother and stepfather.

09:51:33 11 Q. Were your kids living there as well?

09:51:35 12 A. Yes.

09:51:36 13 Q. How many kids did you have become then?

09:51:38 14 A. Two back then, and one on the way.

09:51:41 15 Q. That apartment, how many floors to that apartment?

09:51:45 16 A. Two.

09:51:46 17 Q. I am going to direct your attention back to April 28th,

09:51:49 18 1984, about 10:00 o'clock in the morning.

09:51:51 19 Do you remember where you were?

09:51:52 20 A. Yes, I was in the room upstairs gazing out the window

09:51:58 21 talking to Fuddy at that time.

09:51:59 22 Q. Were you looking out that window -- when you were looking

09:52:02 23 out that window, what are you looking out at?

09:52:04 24 A. The parking lot, towards Ida B. Wells.

09:52:06 25 Q. Is that the front or back of the 706 building?

09:52:09 1 A. That's the back.

09:52:10 2 Q. You were looking out into the parking lot?

09:52:13 3 A. Yes.

09:52:13 4 Q. Could you see to the left the street of Langley?

09:52:17 5 A. Yes.

09:52:17 6 Q. And to the right, is that the entrance to the rear of the

09:52:20 7 breezeway that goes to the front?

09:52:23 8 A. Yes.

09:52:24 9 Q. Who was Fuddy?

09:52:25 10 A. Jerome Smith.

09:52:26 11 Q. Was he a friend of yours?

09:52:29 12 A. Yes.

09:52:29 13 Q. How long had you known Fuddy?

09:52:31 14 A. About five years.

09:52:32 15 Q. Was Fuddy a member of any gang that you're aware of?

09:52:36 16 A. Gangsters Goon Squad.

09:52:37 17 Q. Did he have any rank?

09:52:39 18 A. Yes, he's the king.

09:52:40 19 Q. Were you a member of that same gang?

09:52:44 20 A. Yes.

09:52:44 21 Q. About how long were you a member of the same gang?

09:52:47 22 A. At the time, over six years.

09:52:50 23 Q. Did you have any rank in that gang?

09:52:52 24 A. No.

09:52:52 25 Q. At that time were you aware of any tension between the

09:52:57 1 Goon Squad and the gang known as the El Rukns?

09:53:00 2 A. Yes.

09:53:00 3 Q. Was there shooting between those gangs at that time?

09:53:05 4 A. One I can recall, yes.

09:53:06 5 Q. In fact, are you aware of where the headquarters of the El

09:53:11 6 Rukns were at?

09:53:11 7 A. Yes, down the street from Ida B. Wells.

09:53:14 8 Q. Was that 39th and Drexel?

09:53:16 9 A. Yes.

09:53:16 10 Q. Now, how long were you talking to Fuddy?

09:53:20 11 A. A couple of minutes.

09:53:21 12 Q. And you stated you were on the top floor of your

09:53:24 13 apartment; is that correct?

09:53:25 14 A. Correct.

09:53:25 15 Q. When you're looking out that window, how far above the

09:53:30 16 ground is the window to the ground?

09:53:31 17 A. Five feet.

09:53:32 18 Q. What were you talking to him about, if you recall?

09:53:36 19 A. It was before Paul Hailey, he was locked up with time, he

09:53:41 20 was telling me that he's standing outside to wait for him.

09:53:44 21 Q. After you were talking to him briefly, did Fuddy have

09:53:46 22 occasion to go anywhere that you saw?

09:53:48 23 A. No, he was going around, under the breezeway and waiting

09:53:52 24 for Paul to get out.

09:53:54 25 Q. And what did you do then?

09:53:55 1 A. I stood in the window for kind of a brief moment.

09:53:58 2 Q. And did you have occasion to go anywhere?

09:54:00 3 A. Yes, I told him I was going to come down there after I put

09:54:03 4 my shirt on, downstairs and wait for him.

09:54:06 5 Q. Where did you go to put your shirt on?

09:54:08 6 A. I went in the next room.

09:54:09 7 Q. Now, before you went to get your shirt on, did you see

09:54:13 8 anybody else pass after Fuddy went to the rear of the

09:54:17 9 breezeway?

09:54:17 10 A. Yes.

09:54:17 11 Q. What did you see?

09:54:18 12 A. I seen two guys get out of the car and walk towards under

09:54:23 13 the breezeway.

09:54:23 14 Q. The same direction that Fuddy went?

09:54:26 15 A. Same direction.

09:54:26 16 Q. How much time passed between the time that you saw Fuddy

09:54:32 17 go under the breezeway to the rear and the time that you saw

09:54:35 18 these two individuals, these two males follow?

09:54:37 19 A. I'll say about two to three minutes.

09:54:39 20 Q. Okay. You were still standing at the same window?

09:54:42 21 A. Yes.

09:54:42 22 Q. Could you describe those individuals?

09:54:45 23 A. One was light skinned with a beard, braids, and a red

09:54:49 24 jacket on. The other one had dark clothing on and a cap,

09:54:52 25 beard and braids.

09:54:53 1 Q. Who was taller, the light skinned one or the dark?

09:54:56 2 A. The light skinned one.

09:54:58 3 Q. And did you see anything on the top of their heads?

09:55:00 4 A. They had a skull.

09:55:03 5 Q. What, if anything, did you see?

09:55:04 6 A. I seen him, you know, with a stocking cap on their head,

09:55:10 7 we call a skull cap.

09:55:11 8 Q. Did it obstruct the view of their face?

09:55:14 9 A. No, it wasn't pulled down.

09:55:16 10 Q. Did you get a look at their faces?

09:55:18 11 A. Yes.

09:55:19 12 Q. Mr. Morris, what is a skull cap?

09:55:22 13 A. We call a skull cap, it is a knitted cap, baseball cap,

09:55:27 14 no, not a baseball, knitted cap.

09:55:29 15 Q. All right. How far is it? How far does it go down or

09:55:34 16 anything like that, besides a knitted cap, can you pull it

09:55:38 17 down over your face?

09:55:39 18 A. Yes.

09:55:39 19 Q. Let me ask you this. Was it covering their faces at the

09:55:43 20 time?

09:55:43 21 A. No.

09:55:44 22 Q. Thank you.

09:55:45 23 How close did they get to you as they passed on their

09:55:50 24 way to the rear of the breezeway?

09:55:51 25 A. Ask that again.

09:55:54 1 Q. How close did they get to that window you were at?

09:55:57 2 A. Five feet.

09:55:58 3 Q. Again, did you get a look at their face when they passed

09:56:02 4 by you five feet away?

09:56:03 5 A. Yes.

09:56:03 6 Q. This was 10:00 o'clock in the morning?

09:56:06 7 A. Yes.

09:56:06 8 Q. Was it sunny out?

09:56:08 9 A. Yes.

09:56:08 10 Q. And was there anything obstructing your view of their

09:56:11 11 face?

09:56:12 12 A. No.

09:56:12 13 Q. If you answered this I apologize, the dark skinned one,

09:56:17 14 what kind of facial hair, the dark skinned one, what kind of

09:56:21 15 facial hair did he have?

09:56:24 16 A. He had a beard, moustache.

09:56:24 17 Q. Did he have braids?

09:56:25 18 A. Yes.

09:56:25 19 Q. Can you describe his physical build compared to the taller

09:56:29 20 light skinned one?

09:56:30 21 A. Kind of stocky like.

09:56:32 22 Q. He was stockier than the tall one?

09:56:35 23 A. Yes.

09:56:35 24 Q. Than the tall one?

09:56:37 25 Q. Did you see where they walked to then?

09:56:38 1 A. They walked up under the breezeway.

09:56:41 2 Q. Now, after they walked under the breezeway, what, if

09:56:44 3 anything, did you have occasion to do?

09:56:45 4 A. I was going to get my shirt out the other room.

09:56:49 5 Q. Where was your shirt?

09:56:50 6 A. In the next room.

09:56:51 7 Q. And did anything unusual occur as you were putting on your

09:56:54 8 shirt?

09:56:55 9 A. Yes, I heard several gunshots at that time.

09:56:57 10 Q. About how much time passed between the time that you

09:57:01 11 observed these two individuals go under the breezeway and the

09:57:04 12 time that you heard several gunshots?

09:57:06 13 A. A couple a minutes, about five minutes, a couple of

09:57:11 14 minutes.

09:57:11 15 Q. What did you do after you heard those gunshots?

09:57:13 16 A. I ran outside.

09:57:14 17 Q. Now, did you have occasion to look out anywhere?

09:57:17 18 A. I looked, yes, out the back window.

09:57:19 19 Q. Is that the window where you were putting your shirt on?

09:57:22 20 A. Yes, yes.

09:57:23 21 Q. That's a different window than when you were talking to

09:57:27 22 Fuddy?

09:57:27 23 A. Yes.

09:57:27 24 Q. Did you happen to see anything when you looked out that

09:57:31 25 other window?

09:57:32 1 A. The same guy started, they were running back to the same
09:57:36 2 -- to the car.
09:57:37 3 Q. Were they doing anything as they were running back to the
09:57:39 4 car?
09:57:39 5 A. They was taking their face masks off.
09:57:42 6 Q. Did you see where they ran to?
09:57:43 7 A. Yes, they ran back to the car, they got out.
09:57:46 8 Q. Could you describe that car for us?
09:57:49 9 A. It was a four-door Cadillac, white top.
09:57:51 10 Q. What color was it, if you recall?
09:57:53 11 A. Like a blue-ish green.
09:57:56 12 Q. Did you see anything in their hands as they were running
09:57:59 13 towards the car?
09:58:00 14 A. They had a gun.
09:58:01 15 Q. And what happened once they got to the car?
09:58:03 16 A. The light skinned one got in first while the other one had
09:58:09 17 the door open. As they got there, threw the guns in, took
09:58:14 18 their caps off, the other guy in.
09:58:14 19 Q. Who got in first?
09:58:16 20 A. Hawkins got in first.
09:58:17 21 Q. What was Fields doing at that time?
09:58:19 22 A. He was looking around.
09:58:20 23 Q. Well, you stated that Hawkins got in first, correct?
09:58:25 24 A. Right.
09:58:25 25 Q. Where was the other individual?

09:58:27 1 A. He was standing by the car, had the door open.

09:58:31 2 Q. And what did Hawkins do when he got in the car?

09:58:34 3 A. He took his gun, throwed it in the car.

09:58:36 4 Q. And got in the car?

09:58:37 5 A. Yes.

09:58:37 6 Q. What did the other individual do?

09:58:40 7 A. He stood outside holding the door open.

09:58:42 8 Q. All right. What did he do after that, after Hawkins got

09:58:47 9 in the car?

09:58:47 10 A. He just looked around and got in the car after him.

09:58:49 11 Q. When he looked around, was the ski mask up?

09:58:55 12 A. Yes, it was up.

09:58:56 13 Q. Could you see his face?

09:58:58 14 A. Yes.

09:58:58 15 Q. Do you see that person here in the courtroom today?

09:59:01 16 A. Yes.

09:59:01 17 Q. Could you please point and identify something that he is

09:59:03 18 wearing?

09:59:03 19 A. A suit.

09:59:04 20 Q. Could you please point physically point?

09:59:07 21 A. Right there.

09:59:08 22 Q. Judge, let the record reflect the witness has pointed out

09:59:12 23 the defendant Nathson Fields.

09:59:13 24 Did Mr. Fields then get in the car?

09:59:17 25 A. Yes.

09:59:17 1 Q. And how many people were in the car?

09:59:18 2 A. I'll say four, four people.

09:59:21 3 Q. Did the car take off?

09:59:22 4 A. Yes.

09:59:22 5 Q. Had you ever seen Hawkins before that date?

09:59:26 6 A. A couple of times around, yes.

09:59:28 7 Q. Did you know him to be a member of any gang?

09:59:31 8 A. Yes.

09:59:31 9 Q. What gang is that?

09:59:33 10 A. The El Rukns.

09:59:34 11 Q. After you saw that car take off, what did you do then?

09:59:38 12 A. Then I ran downstairs and ran outside.

09:59:41 13 Q. Where specifically did you run to?

09:59:43 14 A. Up under the breezeway right around the corner.

09:59:45 15 Q. The front or the back of the building?

09:59:47 16 A. Front of the building.

09:59:49 17 Q. Did you see anything there?

09:59:50 18 A. That's where I seen Fuddy and Talman lying on the ground.

09:59:56 19 Q. Was Talman Hickman a member of any gang?

09:59:58 20 A. No.

09:59:58 21 Q. Did the police eventually arrive on the scene at 706 East

10:00:03 22 39th Street?

10:00:03 23 A. They arrived a little bit of time afterwards.

10:00:06 24 Q. And at some point that night, did you talk to a police

10:00:10 25 officer?

10:00:10 1 A. Yes.

10:00:11 2 Q. Do you know the name of the police officer?

10:00:13 3 A. No, I don't remember the name.

10:00:15 4 Q. Did you tell the police officer anything?

10:00:17 5 A. Yes, I told him I seen something. They told me they will

10:00:21 6 get back to me. It took them about a year later, they came

10:00:25 7 back.

10:00:25 8 Q. In fact, going to direct your attention to May 16th, 1985,

10:00:30 9 did the police get back to you?

10:00:31 10 A. Yes.

10:00:31 11 Q. Did you talk to a detective by the name of O'Callaghan?

10:00:35 12 A. Yes.

10:00:36 13 Q. And can you describe what he looks like?

10:00:38 14 A. He is a white guy, white hair, tall and big stomach, I

10:00:43 15 guess.

10:00:43 16 Q. Did you have occasion to talk to him at the state's

10:00:47 17 attorney's office on the 13th floor, May 16th, 1985?

10:00:51 18 A. Yes.

10:00:51 19 Q. And did you have occasion to look at some photographs?

10:00:54 20 A. Yes.

10:00:54 21 Q. About how many pictures did you look at?

10:00:58 22 A. About 30.

10:00:59 23 Q. Did you pick anybody out of those pictures who you

10:01:03 24 remembered as the persons you saw going or walking past before

10:01:08 25 the shots and then running to the car afterwards?

10:01:13 1 A. Yes.

10:01:13 2 Q. Who did you pick out?

10:01:15 3 A. Hawkins, the light-skinned guy and the dark skinned guy.

10:01:18 4 Q. And one of the individuals you picked out, is that the

10:01:21 5 same individual that you picked out in court today?

10:01:23 6 A. Yes.

10:01:24 7 Q. Did you tell anything to Detective O'Callaghan when you

10:01:26 8 picked those individuals out from those photographs?

10:01:28 9 A. No.

10:01:28 10 Q. Well, when you picked those photos out, did you say

10:01:32 11 anything about wanting to see them in person?

10:01:35 12 A. I wanted to see a lineup.

10:01:36 13 Q. Why did you say that?

10:01:38 14 A. Because I wanted to be sure that these are the guys.

10:01:41 15 Q. Did Detective O'Callaghan ever tell you who to pick out?

10:01:45 16 A. No. No.

10:01:46 17 Q. Now, directing your attention to May 18th, 1985, did you

10:01:51 18 have occasion to view a lineup?

10:01:52 19 A. Yes.

10:01:53 20 Q. I'm going to show you what has been marked as people's

10:01:57 21 number 19 A. Do you recognize that?

10:02:00 22 A. Yes.

10:02:00 23 Q. Is that a photo of the lineup that you saw on that date?

10:02:03 24 A. Yes.

10:02:03 25 Q. And did you identify anybody in that lineup?

10:02:07 1 A. Yes.

10:02:08 2 Q. Who did you identify?

10:02:09 3 A. The light-skinned guy.

10:02:12 4 Q. Okay. Did Detective O'Callaghan ever tell you who to pick

10:02:16 5 out?

10:02:16 6 A. No.

10:02:17 7 Q. Did you view a lineup by yourself?

10:02:20 8 A. Yes.

10:02:20 9 Q. No other witnesses were in with you?

10:02:23 10 A. No.

10:02:23 11 Q. Nobody told you who to pick out?

10:02:27 12 A. No.

10:02:27 13 Q. The person that you picked out, you stated that it was the

10:02:30 14 light skinned fellow; is that correct?

10:02:32 15 A. Yes.

10:02:32 16 Q. And that's the person that you knew as Hawkins?

10:02:35 17 A. Yes.

10:02:35 18 Q. Is that the same person that you had seen around the

10:02:38 19 building before as well?

10:02:40 20 A. Yes.

10:02:40 21 Q. Does this fairly and accurately portray the way the lineup

10:02:45 22 looked at the time that you identified the light-skinned guy?

10:02:48 23 A. Yes.

10:02:49 24 Q. And, again, you indicated that is the same person that was

10:02:54 25 the taller, skinnier one, correct?

10:02:56 1 A. Correct.

10:02:56 2 Q. Going to direct your attention to June 14th, 1985. Did
10:03:02 3 you have occasion to go back down to area one police
10:03:04 4 headquarters?

10:03:05 5 A. Yes.

10:03:05 6 Q. And did you view another lineup?

10:03:07 7 A. Yes.

10:03:08 8 Q. Judge, showing the witness for the record what's been
10:03:11 9 marked as people's number 16.

10:03:14 10 Is that the lineup that you viewed?

10:03:15 11 A. Yes.

10:03:15 12 Q. Did you identify anybody in that lineup?

10:03:19 13 A. Yes.

10:03:19 14 Q. And who did you identify in that lineup?

10:03:22 15 A. The dark skinned guy.

10:03:24 16 Q. Is that the same person that you identified here in court
10:03:28 17 today?

10:03:28 18 A. Yes.

10:03:29 19 Q. Is that the same individual that was the darker skinned,
10:03:33 20 more solidly built individual that was with the taller, light
10:03:37 21 complected individual that you saw back on April 28th, 1984?

10:03:41 22 A. Yes.

10:03:41 23 Q. Now, again, is there also an X above that person that you
10:03:46 24 identified on people's number 19?

10:03:48 25 A. Yes.

10:03:48 1 Q. And is that the X he put on there back in June of 1986
10:03:54 2 when you testified in this case?
10:03:55 3 A. Yes.
10:03:56 4 Q. And is this the same individual that you identified as the
10:04:00 5 same person that you saw going past following Fuddy and then
10:04:04 6 hearing the shots and then running back towards the car and
10:04:08 7 then looking around and getting in the car?
10:04:10 8 A. Yes.
10:04:10 9 Q. Just so we're clear, you saw his face several times,
10:04:14 10 correct?
10:04:15 11 A. Yes.
10:04:15 12 Q. First, showing you people's 3-A, do you recognize that,
10:04:21 13 Mr. Morris?
10:04:22 14 A. Yes, Talman Hickman.
10:04:23 15 Q. Mr. Hickman?
10:04:25 16 A. Yes.
10:04:25 17 Q. Showing you people's No. 4, do you recognize that?
10:04:29 18 A. Yes, that's Fuddy.
10:04:31 19 Q. Does that fairly and accurately portray the way they
10:04:35 20 looked back after you heard the shots and went down to see
10:04:39 21 what happened?
10:04:39 22 A. Yes.
10:04:39 23 Q. Now, after you identified, after you viewed the lineup on
10:04:43 24 June 14th, 1985, I'm directing your attention to March of '86,
10:04:50 25 this case was set for trial, did you have occasion to be

10:04:52 1 relocated by the state's attorney's office?

10:04:55 2 A. Yes.

10:04:55 3 Q. And did you get relocated to out of state?

10:04:59 4 A. I moved to my mother's house out of state.

10:05:01 5 Q. Eventually did their office pay for you to get relocated?

10:05:06 6 A. Yes.

10:05:06 7 Q. To out of state?

10:05:07 8 A. Yes.

10:05:07 9 Q. In fact, was your whole family moved?

10:05:10 10 A. Yes, my whole family was moved.

10:05:12 11 Q. Your kids as well as Sandra Langston?

10:05:15 12 A. Yes.

10:05:15 13 Q. Was she your girlfriend at the time or your wife?

10:05:18 14 A. My girlfriend at the time.

10:05:20 15 Q. Did we pay for those expenses to move you?

10:05:23 16 A. Yes.

10:05:24 17 Q. Were you working at that time?

10:05:26 18 A. No.

10:05:27 19 Q. Was Sandra working at that time?

10:05:29 20 A. No.

10:05:29 21 Q. And the kids were staying with you, correct?

10:05:32 22 A. Yes, before I moved, yes.

10:05:34 23 Q. Gerald, I'm going to show you what's been marked as

10:05:38 24 Defendant's Exhibit 388. Do you recognize that?

10:05:51 25 A. Yes, the building I stayed in.

10:05:54 1 Q. And do you recognize the window that is already circled?

10:05:58 2 A. Yes, that's my side view window. I can look outside.

10:06:01 3 Q. Is that the same window that you were talking to Fuddy out

10:06:04 4 of?

10:06:05 5 A. Yes.

10:06:05 6 Q. And is that a view taken from the street Langley looking

10:06:09 7 towards the rear of the 706 building?

10:06:11 8 A. Yes.

10:06:11 9 Q. In fact, do you see some gang insignia on that building?

10:06:16 10 A. Yes.

10:06:17 11 Q. Can you tell us what that stands for?

10:06:19 12 A. Black Gangster Goon Squad.

10:06:21 13 Q. B G G S; is that correct?

10:06:23 14 A. Yes.

10:06:24 15 Q. Was that building considered the 706 building considered

10:06:30 16 to be territory or a building belonging to the Goon Squad

10:06:34 17 gang?

10:06:35 18 A. Yes.

10:06:35 19 Q. Showing you what's been marked as Defendant's Exhibit 389.

10:06:55 20 Do you recognize that?

10:06:56 21 A. Yes, that's the top window I was looking out when I was

10:06:59 22 talking to Fuddy.

10:07:00 23 Q. Is that window circled as well?

10:07:03 24 A. Yes.

10:07:03 25 Q. In fact, did you circle both those -- did you yourself

10:07:07 1 make those marks back when you testified back in June of '86
10:07:10 2 in this trial?
10:07:11 3 A. Yes.
10:07:11 4 Q. The two windows that are circled in both 389 and 388, are
10:07:18 5 those the exact same windows?
10:07:19 6 A. Yes.
10:07:19 7 Q. All right. And looking at Defendant's Exhibit 389, do you
10:07:24 8 see the street Langley?
10:07:25 9 A. Yes, street right here.
10:07:27 10 Q. That is to the right of the picture?
10:07:30 11 A. Yes.
10:07:30 12 Q. Where was the breezeway that connects the front of the
10:07:40 13 building?
10:07:40 14 A. That would be left of the building.
10:07:41 15 Q. Left of Defendant's Exhibit 389?
10:07:44 16 A. Yes.
10:07:44 17 Q. Do those photos fairly and accurately portray the scene
10:07:49 18 back the way it appeared back in April 28, 1984?
10:07:52 19 A. Yes.
10:07:52 20 Q. Showing you Defendant's Exhibit 389, you stated that they
10:08:00 21 got about five feet from the window; is that correct?
10:08:02 22 A. Yes.
10:08:03 23 Q. Can you please put an X to indicate where they were when
10:08:07 24 they passed by your window on Defendant's Exhibit 389 on their
10:08:11 25 way to the rear of the breezeway?

10:08:12 1 THE COURT: Again, everybody agrees that this is what
10:08:15 2 the witness did during the trial.

10:08:20 3 THE WITNESS: All right. It's that way, sidewalk
10:08:22 4 right up in here.

10:08:23 5 BY MS. KATZ:

10:08:25 6 Q. For the record, all right. This is like the standard
10:08:27 7 picture. Everything you are pointing out is not on that
10:08:31 8 photo. Is the sidewalk on the photo, Mr. Morris?

10:08:33 9 A. The grass area right here.

10:08:37 10 Q. I asked if the sidewalk was in that photo?

10:08:41 11 A. No, no, it is not.

10:08:42 12 Q. Did they walk on the grass or on the sidewalk?

10:08:45 13 A. Sidewalk.

10:08:46 14 Q. That's when they walked in front of you?

10:08:49 15 A. Yes.

10:08:49 16 Q. Okay. Now, showing you Defendant's Exhibit 390, do you
10:09:06 17 recognize that?

10:09:07 18 A. Yes, that's my back window.

10:09:11 19 Q. Now, is that the back window that you looked out when you
10:09:14 20 were getting your shirt, you saw the individual with guns in
10:09:18 21 their hands taking their masks off and running to the car that
10:09:22 22 you described?

10:09:22 23 A. Yes.

10:09:22 24 Q. Does that window, was that boarded up back in April of
10:09:27 25 '84?

10:09:27 1 A. No, that wasn't boarded up.

10:09:28 2 Q. All right. Besides that, does that photo fairly and

10:09:32 3 accurately portray the way it appeared in April of '84?

10:09:35 4 A. Yes.

10:09:36 5 Q. In fact, you also see the same gang insignia to indicate

10:09:41 6 that it is a Goon Squad building?

10:09:42 7 A. Yes.

10:09:43 8 Q. The same B G G S?

10:09:45 9 A. Yes.

10:09:45 10 Q. Does that window look out onto Langley?

10:09:51 11 A. Yes.

10:09:51 12 Q. Again, does that fairly and accurately portray the way the

10:09:56 13 building appeared in April of '84?

10:09:57 14 A. Yes.

10:09:57 15 Q. Besides the boarded up window?

10:09:59 16 A. Yes.

10:10:00 17 Q. Showing you Defendant's Exhibit 391, do you recognize

10:10:17 18 that?

10:10:17 19 A. Yes.

10:10:18 20 Q. What do you recognize that as?

10:10:21 21 A. That's a car, where the car was parked at. This is the

10:10:24 22 sidewalk where they came and left from, right here, sidewalk

10:10:29 23 past my window.

10:10:30 24 Q. Do you see a car that's already marked there?

10:10:32 25 A. Yes, right here.

10:10:33 1 Q. Did you put that marking there back in June of 1986 when
10:10:37 2 you testified in this case?

10:10:38 3 A. Yes.

10:10:38 4 Q. Was that approximately where the car was that you
10:10:43 5 described where you saw the individuals get out and walk past
10:10:47 6 you?

10:10:47 7 A. Yes.

10:10:47 8 Q. In fact, do you also see a marking on Defendant's Exhibit
10:10:51 9 391, an X and a line?

10:10:54 10 A. Yes.

10:10:54 11 Q. And what does that X and line, did you put that mark there
10:10:59 12 back in June of 1986 when you testified in this case?

10:11:02 13 A. Yes.

10:11:02 14 Q. What does that signify?

10:11:05 15 A. Where they had came from, there is where they ended up
10:11:09 16 right here.

10:11:09 17 Q. Okay. Now, does that also indicate approximately -- is
10:11:15 18 that approximately the same way that they went back into the
10:11:17 19 car as well?

10:11:18 20 A. No, no.

10:11:19 21 Q. Okay.

10:11:23 22 A. This is when they came back, to get back into the car
10:11:26 23 right here.

10:11:26 24 Q. Okay.

10:11:28 25 A. Came back this way, the car was parked here.

10:11:31 1 Q. Okay. Now, showing you what's been marked as Defendant's
10:11:35 2 Exhibit 387, do you recognize that?
10:11:50 3 A. Yes.
10:11:51 4 Q. What do you recognize that as?
10:11:54 5 A. That's a car, where the car was parked at.
10:11:57 6 Q. Where it says car and a box, does that indicate
10:12:00 7 approximately where the car was that you saw them get out of
10:12:03 8 and run back into?
10:12:04 9 A. Yes.
10:12:04 10 Q. Where it was positioned at?
10:12:09 11 A. Yes.
10:12:09 12 Q. Just so we're clear, that's not the same car?
10:12:13 13 A. That's not the same car.
10:12:14 14 Q. Do you remember what kind of model car it was?
10:12:17 15 A. Cadillac.
10:12:18 16 Q. Something like that?
10:12:19 17 A. Yes.
10:12:19 18 Q. Do these photos, Defendant's Exhibit 391 and 387, fairly
10:12:25 19 and accurately portray the way the scene was back on April
10:12:29 20 28th, 1984?
10:12:30 21 A. Yes.
10:12:32 22 Q. Mr. Morris, I'm going to show you what's been marked as
10:12:36 23 Defendant's Exhibit 181-2 on the ELMO.
10:12:47 24 Do you recognize this?
10:12:48 25 A. Yes.

10:12:48 1 Q. Is that something -- well, is that something that you
10:12:55 2 signed?
10:12:55 3 A. Yes.
10:12:55 4 Q. Back in August the 25th, 1999?
10:13:01 5 A. Yes.
10:13:01 6 Q. Now, when is the first time you spoke to lawyers for
10:13:05 7 Nathson Fields?
10:13:06 8 A. Oh, been a while.
10:13:08 9 Q. Let me ask you this. The day that you signed that, was
10:13:12 10 that the first time that you had spoke to the lawyers for
10:13:14 11 Nathson Fields?
10:13:15 12 A. Yes, first time.
10:13:16 13 Q. And about two weeks prior to that, had you spoken to
10:13:20 14 somebody concerning your knowledge about this case?
10:13:22 15 A. Two weeks prior, no, I don't think so, no.
10:13:25 16 Q. Well, do you see the underlined portion there?
10:13:30 17 A. Yes.
10:13:30 18 Q. Now, there are some portions that are not underlined; is
10:13:36 19 that correct?
10:13:36 20 A. Yes.
10:13:36 21 Q. Now, when you were -- when you gave that, signed that
10:13:41 22 recant, was that in Milwaukee?
10:13:42 23 A. Yes.
10:13:42 24 Q. And that's where you were living with your kids and your
10:13:45 25 wife, correct?

10:13:46 1 A. Correct.

10:13:46 2 Q. Some portions are underlined and some are not, correct?

10:13:51 3 A. Correct.

10:13:51 4 Q. Now, did you say some of those things to lawyers and did

10:13:56 5 you not say some of those things to the lawyers?

10:13:58 6 A. Yes and no.

10:13:59 7 Q. When you say yes, what did you say to the lawyers that

10:14:02 8 appears in that recant?

10:14:03 9 A. On April 28th, they was asking me where I lived, I said

10:14:09 10 Chicago, Illinois in the morning I was in the apartment.

10:14:12 11 Q. Mr. Morris, take your time. Read that document before you

10:14:16 12 start saying anything. Take your time.

10:14:18 13 A. Okay.

10:14:20 14 Q. Judge, withdraw the question.

10:14:22 15 That document I just showed you, Defendant's Exhibit

10:14:24 16 181-2, when did you sign that? Why did you sign that? I

10:14:31 17 apologize?

10:14:31 18 A. I just -- I wanted it over. I didn't want to be involved.

10:14:34 19 I didn't want to deal with it. I was kind of -- my kids were

10:14:40 20 staying there. I knew a couple of El Rukns that had moved up

10:14:43 21 there.

10:14:43 22 Q. Had they moved up there at about the same time you signed

10:14:46 23 this recant?

10:14:47 24 A. Yes, same time.

10:14:48 25 Q. Were you aware of the El Rukns intimidating witnesses?

10:14:51 1 A. Yes.

10:14:52 2 Q. In fact, that is the reason why you wanted to be
10:14:57 3 relocated; is that correct?

10:14:57 4 A. Yes.

10:15:06 5 MR. HEPPELL: This is cross-examination by Mr.
10:15:09 6 Fields' defense attorney Ms. Conyers.

10:15:03 7 - - -

10:15:03 8 GERALD MORRIS, CROSS-EXAMINATION, PREVIOUS TESTIMONY
10:15:03 9 BY MR. HEPPELL: (Reading:)

10:15:13 10 Q. Mr. Morris, you told us earlier you were a gangster Goon
10:15:18 11 Squad member for about six years?

10:15:19 12 A. Yes.

10:15:19 13 Q. In 1984, you had been a gangster Goon Squad member for how
10:15:23 14 many years?

10:15:24 15 A. 1984?

10:15:25 16 Q. In 1984.

10:15:26 17 A. About six years, yes, six years.

10:15:28 18 Q. And the building that you lived in was a gangster Goon
10:15:31 19 Squad building?

10:15:32 20 A. Yes, that's where we hangout. Yes.

10:15:33 21 Q. Well, you lived there, right?

10:15:35 22 A. I lived there.

10:15:35 23 Q. You hung out there also?

10:15:37 24 A. Yes, I lived there.

10:15:39 25 Q. And did you have gang meetings there?

10:15:40 1 A. Gang meetings?

10:15:41 2 Q. Yes.

10:15:42 3 A. No, we never had gang meetings. We partied and drank
10:15:45 4 there, yes.

10:15:46 5 Q. Now, the insignia that the state showed you, that shows
10:15:50 6 that the building was a gangster Goon Squad building, right?

10:15:54 7 A. Yes.

10:15:54 8 Q. And that there was drugs sold out of that building on
10:15:57 9 behalf of the gangster Goon Squad?

10:15:59 10 A. No.

10:16:00 11 Q. The gangster Goon Squad had conflict with other rival
10:16:03 12 gangs?

10:16:03 13 A. Yes, I mean, yes.

10:16:04 14 Q. And some of those conflicts were resolved by violence?

10:16:07 15 A. Yes.

10:16:07 16 Q. In fact, on April 28, Fuddy was waiting outside for Paul
10:16:12 17 Hailey to be released from the county jail?

10:16:14 18 A. Yes.

10:16:14 19 Q. And Paul Hailey, you thought, was going to be released.
10:16:18 20 He had been arrested for shooting at rival gang members?

10:16:21 21 A. I can't recall that.

10:16:22 22 Q. And you were going outside to wait with Fuddy for Paul?

10:16:25 23 A. Yes.

10:16:26 24 Q. Now, in addition to yourself, Sandra Langston was also in
10:16:31 25 the window with you when you spoke with Fuddy?

10:16:35 1 A. Yes, standing beside me.

10:16:36 2 Q. Standing on the side of you?

10:16:37 3 A. Yes.

10:16:38 4 Q. And you spoke with Fuddy for a couple of minutes?

10:16:41 5 A. Yes.

10:16:41 6 Q. And then he went under the breezeway?

10:16:44 7 A. Under the breezeway.

10:16:45 8 Q. Okay. You could not really see him once he went under

10:16:48 9 that breezeway?

10:16:49 10 A. No, I couldn't see him.

10:16:50 11 Q. You can't see anyone once they turn and go into the

10:16:53 12 breezeway?

10:16:53 13 A. Right.

10:16:54 14 Q. And you waited and you heard gunshot within minutes of

10:17:00 15 seeing Fuddy at your window?

10:17:02 16 A. Yes.

10:17:02 17 Q. Did you see where Fuddy came from?

10:17:03 18 A. He was coming off of Langley.

10:17:05 19 Q. Pardon me?

10:17:06 20 A. Coming off of Langley, Langley.

10:17:07 21 Q. Did you see Talman Hickman before he was shot that day?

10:17:11 22 A. No, I didn't see him.

10:17:12 23 Q. And you saw Fuddy by himself?

10:17:14 24 A. Yes.

10:17:14 25 Q. And no one else?

10:17:17 1 A. No.

10:17:17 2 Q. And when you got to the front of the building where Fuddy

10:17:20 3 and Talman were, did you see other people out there?

10:17:23 4 A. No, I didn't see anybody else out there.

10:17:26 5 Q. When they were shot, you came out, you didn't see anyone

10:17:30 6 else out there?

10:17:30 7 A. No, not out there.

10:17:32 8 Q. Now, the police came to your apartment that night?

10:17:35 9 A. Yes.

10:17:35 10 Q. Apartment 106?

10:17:39 11 A. Yes.

10:17:39 12 Q. And were you present when they interviewed Sandra

10:17:44 13 Langston?

10:17:44 14 A. I think I was still outside.

10:17:46 15 Q. You were still outside?

10:17:47 16 A. Yes.

10:17:48 17 Q. Were you present when they interviewed Randy Langston?

10:17:51 18 A. I think I was in the house with Randy, yes.

10:17:53 19 Q. I'm sorry?

10:17:54 20 A. Yes, I was probably in the house, yes.

10:17:57 21 Q. You were in the house when they interviewed Randy?

10:18:00 22 A. Yes.

10:18:00 23 Q. And you know Randy Langston?

10:18:02 24 A. Yes, he's my brother-in-law.

10:18:03 25 Q. And Eric Langston?

10:18:05 1 A. Yes, my brother-in-law.

10:18:06 2 Q. When were you and Sandra Langston married?

10:18:09 3 A. Back in '86.

10:18:11 4 Q. And do you remember -- you don't remember the officer that

10:18:15 5 you spoke to in 1985?

10:18:17 6 A. The first officer that came up, no, I can't remember his

10:18:20 7 name.

10:18:20 8 Q. You don't?

10:18:21 9 A. No.

10:18:21 10 Q. You don't remember the description of that officer?

10:18:26 11 A. No.

10:18:27 12 Q. And you spoke with that officer for approximately 10, 15

10:18:29 13 minutes that night?

10:18:30 14 A. Yes.

10:18:31 15 Q. And you didn't speak with the police that were on the

10:18:34 16 streets after the shooting?

10:18:35 17 A. No.

10:18:36 18 Q. Fuddy was one of your closest friends?

10:18:39 19 A. Yes.

10:18:39 20 Q. And you ran out, you didn't see anybody else out there and

10:18:44 21 you ran away?

10:18:45 22 A. Yes, I went to my friend's house.

10:18:47 23 Q. So you didn't wait for the police to tell them anything?

10:18:50 24 A. No, at the time I was upset, I just left.

10:18:52 25 Q. And when you came back, the police were still out there?

10:18:55 1 A. Yes, that's when everybody was out there, when I came back
10:18:58 2 over there.

10:18:59 3 Q. And you still did not speak with the police when you came
10:19:02 4 back?

10:19:02 5 A. No, at the time, no.

10:19:04 6 Q. I'm sorry?

10:19:05 7 A. No.

10:19:05 8 Q. Mr. Morris, the men that you say you saw running back to
10:19:12 9 the car, did you not see their faces, did you?

10:19:14 10 A. Yes, they were running back to the car.

10:19:16 11 Q. You said that you saw two men running back to the car, two
10:19:19 12 men with guns?

10:19:20 13 A. Yes.

10:19:20 14 Q. You did not see their faces, did you?

10:19:23 15 A. Yes.

10:19:23 16 Q. Well, Mr. Morris, you testified in this matter in June of
10:19:26 17 1986, right?

10:19:28 18 A. Yes.

10:19:28 19 Q. And page 126 of the transcript, you were asked this
10:19:32 20 question: Mr. Morris, well, could you see their faces as they
10:19:37 21 ran by on the side window? And your answer was, no, I
10:19:41 22 couldn't see them, but I knew it was them.

10:19:44 23 That was the testimony in 1986, wasn't it?

10:19:47 24 A. Yes.

10:19:47 25 Q. And you were asked again on page 348, line 17, but you

10:19:53 1 didn't see their faces this time, did you? And your answer
10:19:56 2 for the second time was, no, I didn't see the face.

10:20:00 3 That was your testimony in June of 1986?

10:20:06 4 A. Yes.

10:20:06 5 Q. Now, in June of 1999, a lawyer named Jon Stainthorpe came
10:20:10 6 to see you in Milwaukee?

10:20:12 7 A. Yes.

10:20:12 8 Q. And he brought with him a young lady named Al son forker?

10:20:17 9 A. Yes.

10:20:18 10 Q. And you agreed to meet with Mr. Stainthorpe?

10:20:20 11 A. Outside of my apartment, yes.

10:20:21 12 Q. Outside your apartment?

10:20:23 13 A. Yes.

10:20:23 14 Q. Let me rephrase that.

10:20:26 15 You met Tim Lohraff in June of '99?

10:20:30 16 A. Yes.

10:20:30 17 Q. And when you met with Mr. Lohraff, he asked you questions
10:20:35 18 about this April 1984 shooting?

10:20:37 19 A. Yes.

10:20:38 20 Q. And you did not tell Mr. Lohraff you wouldn't speak to
10:20:43 21 him, you spoke to him?

10:20:43 22 A. I spoke to him because I didn't want to be bothered
10:20:45 23 anymore. I was kind of afraid for my family. They was up
10:20:48 24 there in Milwaukee. I knew a couple --

10:20:50 25 Q. You said that you lived at 706 east 39th?

10:20:53 1 A. Yes.

10:20:54 2 Q. On April 28, 1984?

10:20:57 3 A. Yes.

10:20:57 4 Q. And that you were in your apartment and heard gunshots?

10:20:59 5 A. Yes.

10:21:00 6 Q. And you told them in 1999 you looked out of your window

10:21:05 7 and saw two men running towards the car?

10:21:07 8 A. Yes.

10:21:07 9 Q. And you also told them these men had masks on and you

10:21:12 10 could not see their faces?

10:21:13 11 A. Running up from under the breezeway?

10:21:15 12 Q. Yes.

10:21:16 13 A. No.

10:21:17 14 Q. Well, you told Mr. Stainthorpe and Mr. Lohraff you did not

10:21:23 15 see these men before?

10:21:24 16 A. Yes, I was telling them that so they would leave me alone.

10:21:27 17 I was in fear of retaliation for my family if I keep getting

10:21:32 18 moved and I knew a couple El Rukns moved up there. I just

10:21:35 19 wanted them to leave.

10:21:36 20 Q. We will talk about that in a minute. Would you answer my

10:21:39 21 question, you told Mr. Stainthorpe and Mr. Lohraff that did

10:21:42 22 you not see these men before you heard that shot?

10:21:45 23 A. Yes, I did. I told them.

10:21:47 24 Q. And you told them that you do not know who these men were

10:21:50 25 that you saw running away?

10:21:52 1 A. Yes.

10:21:53 2 Q. You also told them that a long time after the shooting,
10:21:56 3 Detective O'Callaghan showed you four photographs to see if
10:22:00 4 you could identify anyone?

10:22:02 5 A. Yes.

10:22:02 6 Q. And you told them that you picked out photographs by
10:22:07 7 intuition?

10:22:07 8 A. I don't remember saying that. I wouldn't say that.

10:22:10 9 Q. And that not because you recognized the photographs as
10:22:14 10 people involved in the shooting?

10:22:15 11 A. Intuition, I don't think I would ever use that.

10:22:19 12 Q. And you also told Mr. Lohraff and Mr. Stainthorpe that
10:22:23 13 after you picked out the photographs, O'Callaghan said that's
10:22:27 14 him, right?

10:22:28 15 A. He didn't say anything to me.

10:22:30 16 Q. But that's what you told?

10:22:33 17 A. Yes, I told him that was him, that was the guy.

10:22:35 18 Q. You told attorneys Lohraff and Stainthorpe that after you
10:22:39 19 picked out the photographs, O'Callaghan said that's him,
10:22:43 20 correct?

10:22:43 21 A. No.

10:22:44 22 Q. I'll show you what's been previously marked as Defendant's
10:22:51 23 Exhibit 181-2. That is your signature on that document?

10:23:03 24 A. Yes.

10:23:03 25 Q. That document is notarized?

10:23:10 1 A. Yes.

10:23:10 2 Q. And it's dated August 25th, 1999?

10:23:15 3 A. Yes.

10:23:15 4 Q. A-l-l-i-s-o-n, f-o-r-k-e-r-. ^ and that contained
10:23:23 5 statements that you signed your name to?

10:23:25 6 A. Yes.

10:23:25 7 Q. For attorneys Stainthorpe and Lohraff?

10:23:28 8 A. Yes.

10:23:28 9 Q. Now, you also spoke with the state's attorneys in this
10:23:33 10 matter in January 2000; is that correct?

10:23:35 11 A. Yes, that's about right.

10:23:36 12 Q. Now, when you spoke with attorney Stainthorpe and Lohraff
10:23:40 13 in 1999, they told you that they represented Nathson Fields?

10:23:44 14 A. Yes.

10:23:44 15 Q. And at that time, you did not contact the state's
10:23:48 16 attorney's office, did you?

10:23:49 17 A. No.

10:23:49 18 Q. You didn't call the state's attorneys in August or before
10:23:53 19 you had agreed to meet with Mr. Lohraff and Mr. Stainthorpe?

10:23:57 20 A. No.

10:23:57 21 Q. And you didn't tell the state's attorneys that you had any
10:24:00 22 fear for yourself or your family?

10:24:02 23 A. Well, before these people came up there?

10:24:05 24 Q. Right.

10:24:05 25 A. I was uncomfortable, nobody was able to find me, these

10:24:09 1 guys found me. I figured if anybody wants to, they could find
10:24:13 2 me too.
10:24:14 3 Q. You didn't call the state's attorneys?
10:24:15 4 A. No, I did not.
10:24:16 5 Q. Mr. Morris, when the attorneys for Nathson Fields came to
10:24:20 6 see you, Jon Stainthorpe and Tim Lohraff, they first came to
10:24:25 7 see you in June of 1999?
10:24:27 8 A. Yes.
10:24:27 9 Q. And they came back and took the written statement from you
10:24:31 10 in August of 1999?
10:24:33 11 A. Yes.
10:24:34 12 Q. Between June and August of 1999, you did not call the
10:24:39 13 state's attorneys and tell them that you were in fear?
10:24:42 14 A. No.
10:24:42 15 Q. That you were worried about your children?
10:24:45 16 A. No.
10:24:45 17 Q. And you spoke with the state's attorneys in January of
10:24:49 18 2000 when they contacted you?
10:24:52 19 A. Yes.
10:24:52 20 Q. Mr. Morris, when is the last time you saw Detective
10:24:59 21 O'Callaghan?
10:24:59 22 A. I seen him, say, about five years ago, about five years
10:25:03 23 ago I guess on September 16th I seen him again.
10:25:06 24 Q. September 16?
10:25:07 25 A. 2008.

10:25:08 1 Q. 2008?

10:25:08 2 A. Um-hmm.

10:25:10 3 Q. And you were scheduled to testify here last month?

10:25:13 4 A. Yes.

10:25:13 5 Q. You were not available for trial last month in February?

10:25:18 6 A. Right.

10:25:18 7 Q. And at that time, you were trying to avoid coming to court

10:25:21 8 to testify?

10:25:23 9 A. No.

10:25:23 10 Q. The police found you?

10:25:25 11 A. I called.

10:25:26 12 Q. The police?

10:25:27 13 A. I called up O'Callaghan, Dave O'Callaghan.

10:25:30 14 Q. And who is Dave O'Callaghan?

10:25:31 15 A. That's the sergeant I talked to prior in this case.

10:25:35 16 Q. In 1985, that night -- April 28, 1984, you did not give

10:25:45 17 the Chicago police a description of the two men you saw?

10:25:48 18 A. No, I didn't talk to anyone back then.

10:25:53 19 MR. HEPPELL: Nothing further.

10:25:54 20 THE COURT: Is there any more?

10:25:58 21 MS. KATZ: This is the Redirect Examination by

10:26:00 22 Mr. Sexton.

10:25:56 23 - - -

10:25:56 24 GERALD MORRIS, REDIRECT EXAMINATION, PREVIOUS TESTIMONY

10:25:56 25 BY MR. KATZ:

10:26:02 1 Q. That night, April 28, 1984, the same night of the
10:26:07 2 shooting, did some unknown police officer talk to you after
10:26:10 3 the shooting?
10:26:11 4 A. Prior to the shooting?
10:26:12 5 Q. After the shooting.
10:26:13 6 A. Yes, I talked to someone.
10:26:14 7 Q. Did you tell them you could identify who did it?
10:26:16 8 A. Yes, yes.
10:26:17 9 Q. And nobody got back to you?
10:26:18 10 A. No, about a year later.
10:26:19 11 Q. And counsel asked you some questions about when you
10:26:23 12 testified before about what you saw, the two individuals after
10:26:28 13 the shots running back to the car, correct?
10:26:30 14 A. Yes.
10:26:31 15 Q. Now, were you asked this question and did you give this
10:26:34 16 answer when you testified back in June of 1986. Page 325.
10:26:41 17 "QUESTION: And the men that got in the car were at the
10:26:44 18 car when you say they opened the door and turned in your
10:26:47 19 direction?
10:26:48 20 "ANSWER: Yes."
10:26:52 21 A. Yes.
10:26:52 22 Q. And that's when you got a look at their face again?
10:26:55 23 A. Yes.
10:26:55 24 Q. Now, that wasn't the first time you saw their face?
10:26:59 25 A. No.

10:26:59 1 Q. You saw their faces when they followed Fuddy when they
10:27:04 2 walked past your window?
10:27:05 3 A. The breezeway, yes.
10:27:06 4 Q. Now, when these attorneys for Mr. Fields came to Milwaukee
10:27:12 5 to talk to you, you didn't sign this the first time you talked
10:27:14 6 to the attorneys, correct?
10:27:15 7 A. No, no. That's the second time they came.
10:27:17 8 Q. The second time?
10:27:18 9 A. Yes.
10:27:19 10 Q. In fact, when you talked to the first two, the first time
10:27:23 11 you talked to them, that was sometime before this, correct?
10:27:26 12 A. Yes.
10:27:27 13 Q. And were they writing any notes at that time you talked to
10:27:30 14 them?
10:27:31 15 A. No.
10:27:31 16 Q. Did you ever tell them that there were only four
10:27:35 17 photographs that Detective O'Callaghan showed you?
10:27:38 18 A. No.
10:27:39 19 Q. In fact, the only thing that you told them then was that
10:27:42 20 you didn't see the person before you heard the shots, you
10:27:45 21 didn't know who those men were that were running away,
10:27:49 22 correct?
10:27:49 23 A. Yes.
10:27:49 24 Q. Is that the only thing you told them?
10:27:51 25 A. Yes.

10:27:51 1 Q. Again, why is it that you told them that?

10:27:54 2 A. Because I wanted them to leave. I didn't want to be
10:27:57 3 bothered with the case anymore. I was kind of afraid of my
10:28:00 4 kid, my family staying there, you know, I was afraid of them
10:28:04 5 getting hurt.

10:28:05 6 Q. In fact, we talked to you in January of 2000 about why you
10:28:09 7 signed, correct? And do you remember us talking to you in a
10:28:15 8 restaurant in Milwaukee, Wisconsin, on January 10th, 2000?

10:28:18 9 A. Yes.

10:28:19 10 Q. In fact, didn't you tell us that you told that to the
10:28:24 11 attorneys because you were hoping they would leave you alone
10:28:26 12 and you wouldn't be involved any further, that you have
10:28:29 13 children and that you were worried if the attorneys could find
10:28:32 14 you, so could friends of the defendant?

10:28:36 15 A. Yes.

10:28:36 16 Q. Did you also tell us that you knew El Rukns had moved to
10:28:39 17 Milwaukee from Chicago and that you were scared?

10:28:42 18 A. Yes.

10:28:42 19 Q. Did those two attorneys that were talking to you, did they
10:28:47 20 ever tell you that they were going to come back and ask you to
10:28:49 21 sign something?

10:28:50 22 A. No, no.

10:28:51 23 Q. And about how long did they talk to you?

10:28:55 24 A. About five, ten minutes.

10:28:56 25 Q. And they weren't writing any notes?

10:28:58 1 A. No.

10:28:58 2 Q. Did they have a tape recorder?

10:29:00 3 A. No, not that I seen.

10:29:01 4 Q. Could you describe one of the attorneys your Honor talking

10:29:05 5 to?

10:29:05 6 A. He had black hair, sort of short, chubby guy.

10:29:09 7 Q. Was the other attorney taller?

10:29:11 8 A. Yes.

10:29:12 9 Q. When they came, when the attorneys talked to you back --

10:29:16 10 the attorneys talked to you August 25th, 1999, and you signed

10:29:22 11 this, did you read it?

10:29:22 12 A. No, I just signed them so I can let them go.

10:29:27 13 Q. What was your emotional state at that time?

10:29:29 14 A. I was afraid of my family.

10:29:31 15 Q. When you signed this, August 25th, 1999, how long did you

10:29:36 16 talk to them?

10:29:36 17 A. About a couple minutes, I guess.

10:29:38 18 Q. And showing you Defendant's Exhibit 181-2 again, did the

10:29:46 19 lawyer that you described, did he sign anywhere?

10:29:49 20 A. No.

10:29:49 21 Q. Who was the only one that signed it?

10:29:53 22 A. A lady.

10:29:54 23 Q. Who is that lady?

10:29:56 24 A. I can't -- I don't know her name.

10:29:58 25 Q. Some lady?

10:29:59 1 A. Yes.

10:30:00 2 Q. Basically, where it says notary public, correct?

10:30:05 3 A. Yes.

10:30:05 4 Q. Now, I believe you testified on cross that you were asked

10:30:09 5 whether you told the attorneys that you picked one of the

10:30:12 6 photographs out by intuition, correct?

10:30:15 7 A. Yes.

10:30:15 8 Q. What was your educational level back then?

10:30:18 9 A. I finished 9th grade.

10:30:20 10 Q. 9th grade was the last grade you went to?

10:30:23 11 A. Yes.

10:30:23 12 Q. Have you ever used the word intuition back then?

10:30:28 13 A. No.

10:30:28 14 Q. In fact, when we talked to you back in January 10th, 2000,

10:30:32 15 again showing you Defendant's Exhibit 181-2, when we talked to

10:30:36 16 you back in the restaurant to go over the recantation isn't it

10:30:42 17 at that time that you underlined the parts that you did not

10:30:45 18 tell the attorneys?

10:30:46 19 A. Right.

10:30:46 20 Q. And the parts that are not underlined, you admitted

10:30:49 21 telling that to the attorneys?

10:30:51 22 A. Yes.

10:30:51 23 Q. You told us why you did?

10:30:53 24 A. Yes.

10:30:54 25 Q. Counsel asked you about coming to court the last court

10:30:58 1 date, about coming to trial. I believe you testified you
10:31:01 2 called Detective O'Callaghan, correct?
10:31:04 3 A. Correct.
10:31:04 4 Q. Why didn't you get on the plane?
10:31:06 5 A. Why I didn't get on the plane, I didn't have a way to get
10:31:11 6 on the plane at that time.
10:31:11 7 Q. Are you working?
10:31:12 8 A. I am not working.
10:31:14 9 Q. Did you have any way of getting to the airport?
10:31:16 10 A. No, I didn't.
10:31:17 11 Q. In fact, did you call Detective O'Callaghan to explain to
10:31:20 12 him after you missed your plane?
10:31:22 13 A. Yes.
10:31:22 14 Q. And did you ask for transportation to get on the plane
10:31:25 15 this time?
10:31:26 16 A. Yes.
10:31:26 17 Q. So you weren't trying to avoid coming to court?
10:31:30 18 A. No.
10:31:30 19 Q. Just real quick, counsel asked you questions about running
10:31:36 20 to the car. Showing you what's been marked as people's No. 5,
10:31:40 21 do you recognize this?
10:31:40 22 A. Yes.
10:31:41 23 Q. And you had marked that back on June of '86 when you
10:31:45 24 testified in this case, correct?
10:31:46 25 A. Correct.

10:31:46 1 Q. In fact, do you see an X to indicate?

10:31:51 2 A. One X indicates the front of the building.

10:31:53 3 Q. All right.

10:31:54 4 A. The back of the building.

10:31:55 5 Q. Now, the X I'm pointing to, the X above, the furthest

10:32:00 6 above on 706, is that the window you were at when they first

10:32:04 7 passed by?

10:32:04 8 A. Yes.

10:32:04 9 Q. That's when you saw both of their faces?

10:32:08 10 A. Yes.

10:32:08 11 Q. This second window marked X on the side, is that the

10:32:12 12 window you saw them running towards the car?

10:32:14 13 A. Yes.

10:32:14 14 Q. Okay. And do you also see a box to indicate the car they

10:32:18 15 ran to?

10:32:19 16 A. Yes.

10:32:19 17 Q. And is that by the car when they turned back in your

10:32:23 18 direction?

10:32:23 19 A. Yes.

10:32:24 20 Q. In fact, it was Mr. Fields, the person you identified in

10:32:29 21 open court, that took off his mask and looked around before he

10:32:33 22 got in the car?

10:32:34 23 A. Right.

10:32:34 24 Q. And his face was in your direction?

10:32:36 25 A. Yes.

10:32:36 1 Q. And does this diagram fairly and accurately portray the
10:32:41 2 way the area was back in April of '84?

10:32:45 3 A. Yes.

10:32:45 4 Q. Counsel asked you when you came down after you heard the
10:32:48 5 shots. Counsel asked if you saw anyone else out there,
10:32:51 6 correct?

10:32:51 7 A. Yes.

10:32:51 8 Q. Now, you didn't see anyone else by the bodies, correct?

10:32:57 9 A. Right.

10:32:57 10 Q. Do you know if anybody else was on the streets or the
10:32:59 11 sidewalk or anywhere else?

10:33:00 12 A. I can't remember that, no.

10:33:02 13 Q. Is it fair to say your attention was focused on seeing
10:33:06 14 your friend dead on the ground?

10:33:08 15 A. Yes.

10:33:09 16 MS. KATZ: No further questions.

10:33:12 17 - - -

10:33:12 18 GERALD MORRIS, RECROSS-EXAMINATION, TESTIMONY READ

10:33:12 19 BY MR. HEPPELL: (Reading:)

10:33:14 20 Q. Mr. Morris, you testified in June 1986 under oath that you
10:33:19 21 could not see the faces of the two men that were running
10:33:23 22 towards the car?

10:33:25 23 A. They was running towards the car, no. I couldn't see them
10:33:28 24 as they ran towards the car.

10:33:30 25 MR. HEPPELL: Nothing further.

10:33:32 1 MS. KATZ: We are done, your Honor.

10:33:33 2 THE COURT: Is that the end of it?

10:33:35 3 You can step down. Next, a witness or more reading?

10:33:39 4 MR. NOLAND: Mr. Murray.

10:33:40 5 THE COURT: Okay.

10:35:20 6 (Witness sworn.)

10:35:25 7 THE COURT: Mr. Noland, you can go ahead.

10:35:30 8 MR. NOLAND: Thank you, Judge.

10:35:31 9 - - -

10:35:31 10 BERNARD MURRAY, DIRECT EXAMINATION

10:35:31 11 BY MR. NOLAND:

10:35:32 12 Q. Please state your name.

10:35:32 13 A. My name is Bernard Murray.

10:35:34 14 Q. Mr. Murray, what do you do for a living?

10:35:37 15 A. I am an attorney, licensed to practice law and retired

10:35:41 16 presently.

10:35:42 17 Q. And when did you graduate law school, Mr. Murray?

10:35:47 18 A. 1983.

10:35:49 19 Q. Are you from the Chicago area?

10:35:51 20 A. Yes, I am.

10:35:52 21 Q. Did you go to law school in Chicago?

10:35:53 22 A. Went to DePaul law school.

10:35:55 23 Q. And what did you do after you graduated law school?

10:35:58 24 A. I achieved a position with the Cook County state's

10:36:04 25 attorney's office.

10:36:04 1 Q. And did you work for the state's attorney's office for a
10:36:06 2 number of years?

10:36:07 3 A. Yes, from 1983 until I retired from that office in
10:36:13 4 December of 2008.

10:36:14 5 Q. And by the way, Mr. Murray, did my office ask you to
10:36:19 6 review some materials and an expert report by the name of Mike
10:36:24 7 Brasfield and evaluate those materials?

10:36:26 8 A. Yes, you did.

10:36:26 9 Q. And that's the position in which you are called to testify
10:36:30 10 here today?

10:36:30 11 A. Yes.

10:36:30 12 Q. Mr. Murray, can you please describe your -- run through
10:36:36 13 your history at the Cook County state's attorney's office,
10:36:39 14 beginning in 1983?

10:36:40 15 A. I started in the criminal appeals division in that office,
10:36:46 16 approximately ten months there. Then moved to the juvenile
10:36:53 17 prosecution bureau. In that assignment, we prosecute cases
10:36:53 18 both with delinquent minors and abused and neglected children
10:36:59 19 as well.

10:36:59 20 Q. That would have been in the 1984, '85 time frame?

10:37:03 21 A. I was in appeals in 1983 into late 1984, so that was 1984
10:37:08 22 to early 1986.

10:37:09 23 Q. And in that position with respect to juvenile
10:37:13 24 prosecutions, did you become familiar with Chicago Police
10:37:17 25 Department records on crimes?

10:37:19 1 A. Yes, part of the responsibility of prosecuting the
10:37:23 2 delinquency cases as well as the abuse cases was obtaining
10:37:27 3 police reports from the Chicago Police Department.

10:37:29 4 Q. Okay. And then what was your next assignment after
10:37:32 5 juvenile court?

10:37:32 6 A. After juvenile court I was assigned to the felony review
10:37:36 7 unit for approximately one year, and then from there to the
10:37:39 8 preliminary hearings courtroom for again almost a year.

10:37:42 9 Q. Is that called branch 66?

10:37:44 10 A. That's one of the assignments of the preliminary
10:37:48 11 courtrooms, that was the final assignment. I was assigned to
10:37:50 12 that area as well.

10:37:51 13 Q. Can you explain what branch 66 is for the jury, please?

10:37:54 14 A. Branch 66 is called violence court, it handles the
10:38:00 15 homicide and rape cases. It's primarily a unit associated
10:38:05 16 with the initial bond hearings, initial appearance there, and
10:38:08 17 the grand jury leading up to and including the indictment of
10:38:14 18 people for first degree murder and aggravated criminal sexual
10:38:18 19 assault.

10:38:18 20 Q. And where physically is branch 66 located?

10:38:21 21 A. It's on the fourth floor of the courthouse at 2650 south
10:38:24 22 California.

10:38:25 23 Q. And oftentimes in the Chicago legal community, people
10:38:30 24 refer to the criminal courts as 26th and Cal or 26th and
10:38:33 25 California?

10:38:34 1 A. That's correct.

10:38:34 2 Q. In branch 66, would there be a certain police related
10:38:39 3 documents that are provided to the prosecutors to present the
10:38:43 4 cases?

10:38:43 5 A. In branch 66, the police officer would bring the notes or
10:38:52 6 supplemental, supplementary reports that they compiled at that
10:38:55 7 time, they would also provide a felony 101 form for the grand
10:39:00 8 jury processing of the case.

10:39:02 9 Q. And after your time in preliminary hearings, what was your
10:39:06 10 next assignment and when?

10:39:07 11 A. In 1987, I was assigned to the felony trial division.
10:39:13 12 It's at 26th and California. I was assigned to various felony
10:39:17 13 courtrooms. The way the Cook County state's attorney's office
10:39:21 14 maintains those courtrooms, there's three prosecutors in each
10:39:25 15 courtroom. My first step in that assignment would be a third
10:39:29 16 chair, so since I was the least experienced of the three
10:39:31 17 prosecutors in the courtroom. I eventually proved by being
10:39:36 18 more experience by trying cases achieved the level of first
10:39:41 19 chair in the felony trial division.

10:39:42 20 Q. And how long were you trying cases in the felony trial
10:39:46 21 division?

10:39:46 22 A. In that assignment, I tried cases in 1987 all the way to
10:39:52 23 1990.

10:39:53 24 Q. And then did you continue to try cases in the felony trial
10:39:56 25 division throughout the 1990s?

10:39:58 1 A. Throughout my career, but specifically assignment of the
10:40:01 2 felony trial division as the first or second or third chair
10:40:04 3 was during that time period.

10:40:05 4 Q. Can you explain to the jury how the process works, how a
10:40:09 5 case is worked up between the first chair, second chair and
10:40:11 6 third chair?

10:40:12 7 A. When a new file is arraigned and assigned to a felony
10:40:20 8 courtroom, the prosecutors begin the process of gathering all
10:40:24 9 the police reports and all the relevant documents that need to
10:40:27 10 be provided during the discovery process to the criminal
10:40:30 11 defense attorney. So initially a third chair would be getting
10:40:35 12 maybe drug cases or stolen car cases until they become
10:40:38 13 familiar with the processes that are used at 26th and
10:40:43 14 California. So as I gained more experience, I was then
10:40:48 15 entrusted to work up the homicide cases.

10:40:51 16 Q. Mr. Murray, what was your next assignment in 1990?

10:40:55 17 A. 1990, I was assigned to the gang crimes prosecution unit.

10:41:00 18 Q. And how long did you have that assignment?

10:41:02 19 A. I had that assignment until approximately 1997, early --
10:41:09 20 mid 1997. In that assignment too I also obtained a deputy
10:41:14 21 supervisor position in that unit.

10:41:16 22 Q. Throughout that assignment, were you involved in the
10:41:20 23 discovery process on serious criminal matters?

10:41:22 24 A. Yes, the cases that prosecutors are assigned to in the
10:41:27 25 gang crimes unit, they are primarily first degree murder

10:41:31 1 cases.

10:41:31 2 Q. And at some point during that assignment, did you have an
10:41:38 3 additional assignment that was put in addition to it?

10:41:41 4 A. Yes, during that time period, I was cross designated to
10:41:45 5 work with the U.S. Attorney's Office on an investigation and
10:41:49 6 subsequent indictment of the gangsters disciples narcotics
10:41:53 7 conspiracy.

10:41:53 8 Q. What does it mean to be cross designated?

10:41:56 9 A. Had the ability to try cases in federal court as well as
10:42:00 10 trying the case in state court. And then, of course, being
10:42:04 11 allowed to look at documents that are provided to a federal
10:42:07 12 grand jury as opposed to exclusively to a state grand jury.

10:42:12 13 Q. What was your next assignment, Mr. Murray?

10:42:14 14 A. After 1997, I became a trial supervisor back in the felony
10:42:20 15 trial division. The felony trial supervisor is also known as
10:42:25 16 a wing supervisor. You're responsible for supervising six
10:42:29 17 felony courtrooms. Again, they have the three prosecutors in
10:42:32 18 each courtroom, so 18 prosecutors, and the day-to-day
10:42:37 19 responsibilities if there's cases in there where they need
10:42:41 20 additional help or if they need advice on how to charge a case
10:42:44 21 or how to maybe reduce a case for a plea, so that's some of
10:42:49 22 the primary responsibilities.

10:42:50 23 I also continued to try cases with the -- in those
10:42:54 24 courtrooms on my wing.

10:42:55 25 Q. In that capacity, Mr. Murray, if there were any problems

10:42:59 1 that the lawyers under you were having with getting documents
10:43:02 2 from the Chicago Police Department, would you expect they
10:43:03 3 would have brought that to your attention?

10:43:06 4 A. Yes.

10:43:06 5 Q. Were any issues like that brought to your attention as a
10:43:09 6 supervisor?

10:43:09 7 A. No.

10:43:09 8 Q. What was your next position, Mr. Murray?

10:43:12 9 A. I went back to the special prosecution's bureau and I was
10:43:17 10 a deputy bureau chief for the special prosecutions bureau.
10:43:20 11 That bureau has a number of units underneath it, including the
10:43:23 12 gang crimes prosecution unit.

10:43:25 13 Q. And how many lawyers then do you have under you at that
10:43:28 14 time, Mr. Murray?

10:43:29 15 A. It varies, but approximately 75 attorneys.

10:43:34 16 Q. And, again, those attorneys were involved in trying and
10:43:40 17 working up serious criminal activity or criminal allegations
10:43:44 18 in the City of Chicago?

10:43:45 19 A. Yes. The gang crimes prosecution unit had the bulk of the
10:43:50 20 first degree murder cases but the other units had serious
10:43:53 21 felony cases as well.

10:43:54 22 Q. Again, in that capacity, would you expect that the
10:43:56 23 approximately 75 lawyers working under you, if they were
10:44:00 24 having any issues obtaining documents from the Chicago Police
10:44:03 25 Department that would have been brought to your attention?

10:44:05 1 A. I would expect that, yes.

10:44:06 2 Q. Was anything like that brought to your attention?

10:44:08 3 A. No.

10:44:08 4 Q. What was your next assignment, Mr. Murray and when?

10:44:14 5 A. In May of 2001, I became the bureau chief to the criminal
10:44:15 6 prosecutions bureau.

10:44:17 7 Q. And what is the criminal prosecution's bureau?

10:44:20 8 A. It's the largest of the prosecutor bureaus in the state's
10:44:28 9 attorney's office. There are approximately 525 prosecutors
10:44:32 10 assigned to that bureau. Anything from a misdemeanor court,
10:44:37 11 appeals, domestic violence courtrooms, and then the felony
10:44:42 12 trial courtrooms, again in the city as well as in the five
10:44:45 13 suburban courthouses.

10:44:46 14 Q. And how many lawyers -- how long have you had that
10:44:50 15 position as chief of the criminal prosecution bureau of the
10:44:54 16 Cook County state's attorney's office?

10:44:55 17 A. From May 2001 until I left in December 2008.

10:44:59 18 Q. And how many lawyers total were there in the Cook County
10:45:03 19 state's attorney's office, approximately, during that time
10:45:06 20 frame?

10:45:06 21 A. Somewhere around 875. There would sometimes would be
10:45:16 22 grant positions which might be closer to 900 attorneys, but
10:45:19 23 approximately 875 prosecutors in that time frame.

10:45:22 24 Q. Again, of those 875 prosecutors, how many of those were
10:45:24 25 under your supervision for those seven years?

10:45:28 1 A. Approximately 525.

10:45:28 2 Q. Mr. Murray, would you expect that if the 525 prosecutors
10:45:34 3 under your supervision at that time would have been having
10:45:37 4 problems with getting documents from the Chicago Police
10:45:39 5 Department on serious crimes that that would have been brought
10:45:42 6 to your attention?

10:45:43 7 A. I would expect that, yes.

10:45:44 8 MR. LOEVY: This does open the door to any problems.

10:45:47 9 THE COURT: That's not a basis for an objection.

10:45:49 10 It's a basis for something else. The objection is overruled.

10:45:53 11 BY MR. NOLAND:

10:45:54 12 Q. Was that brought to your attention?

10:45:56 13 A. No.

10:45:56 14 Q. And, Mr. Murray, what was your next assignment after that?

10:45:59 15 A. That was my final assignment with the Cook County state's
10:46:02 16 attorney's office.

10:46:02 17 Q. All right. And then where did you go to next?

10:46:06 18 A. I took a position with the DuPage county state's
10:46:10 19 attorney's office from January 2009 until December of 2014.

10:46:15 20 Q. And what were your assignments in the due page county
10:46:18 21 state's attorney's office?

10:46:19 22 A. Initially, I was assigned to a community prosecution unit.
10:46:24 23 I was quickly assigned as a deputy chief. My responsibilities
10:46:28 24 as a deputy chief in DuPage County state's attorney's office
10:46:32 25 was to supervise the six felony courtrooms that due page

10:46:37 1 county maintained.

10:46:38 2 Q. And were you trying cases as well out in do you page
10:46:41 3 county?

10:46:41 4 A. Yes, I was.

10:46:42 5 Q. Were you working with various municipalities and police
10:46:48 6 departments in DuPage county?

10:46:49 7 A. Yes, I was.

10:46:49 8 Q. Mr. Murray, returning to your time when you were in
10:46:53 9 Chicago, you became familiar with records that the Chicago
10:46:57 10 Police Department would have on a homicide case?

10:47:00 11 A. Yes.

10:47:00 12 Q. Can you please describe what the main records are in a
10:47:05 13 homicide case that you became familiar with?

10:47:07 14 A. The records that prosecutors would seek out from the
10:47:13 15 Chicago Police Department were the investigative material and
10:47:15 16 the RD materials, the typed reports. This includes documents
10:47:22 17 such as the arrest report, the initial case report,
10:47:26 18 supplemental reports, and notes also referred to as general
10:47:31 19 progress reports, as well as mug shots, and rap sheets.

10:47:35 20 Q. And were there two main investigatory type files that you
10:47:41 21 would obtain from the Chicago Police Department?

10:47:43 22 A. The two main investigative files that are obtained are the
10:47:49 23 investigative file that's maintained at the area, we call the
10:47:52 24 investigative file, it's also known as the street file or the
10:47:57 25 running file. And also the RD file which is the permanent

10:48:01 1 retention records that are maintained usually at headquarters,
10:48:07 2 11th and state or 35th and Michigan.

10:48:09 3 Q. And would you also obtain on homicide cases, would you
10:48:13 4 need to obtain photographs?

10:48:14 5 A. Yes, photographs either of mug shot photographs either of
10:48:21 6 the defendant or witnesses who may have had a mug shot taken
10:48:25 7 before and rap sheets. They were maintained by part of the
10:48:29 8 Chicago Police Department that was referred to as the bureau
10:48:32 9 of identification.

10:48:32 10 Q. And would you ever proceed to in your practice and the
10:48:39 11 practice of those working under you, proceed to try a case
10:48:43 12 without crime scene photographs?

10:48:44 13 A. No, crime scene photographs were taken by forensic
10:48:48 14 investigators who were working for the Chicago Police
10:48:49 15 Department. They were taken on all first degree murder cases
10:48:54 16 that I am aware of and prosecutors would routinely order those
10:48:58 17 and we would not proceed to trial without those photographs.

10:49:01 18 Q. Shifting gears a little bit, Mr. Murray, what is the
10:49:07 19 prosecutor's role in the discovery process on a criminal case?

10:49:10 20 A. The prosecutors have the primary responsibility to provide
10:49:15 21 the investigative material to the criminal defense attorney
10:49:19 22 prior to trial during the process called discovery . The
10:49:24 23 Chicago Police Department has the obligation statutorily to
10:49:27 24 provide those materials to us. When they provide the
10:49:30 25 materials to us, it's our obligation as prosecutors to provide

10:49:34 1 them to the criminal defense attorney.

10:49:36 2 Q. And are there certain rules, discovery obligations that
10:49:40 3 prosecutors have under the law?

10:49:42 4 A. The Illinois Supreme Court has a rule called Illinois
10:49:46 5 Supreme Court rule 412 which indicates that a prosecutor
10:49:50 6 should provide defendant information and statements whether
10:49:56 7 they're oral or recorded, witness statements, whether they're
10:50:00 8 again oral or recorded, material gathered during the course of
10:50:04 9 the investigation, tangible evidence such as maybe a murder
10:50:08 10 weapon or evidence collected at the crime scene, and any
10:50:11 11 books, photographs, reports, materials that are tended to use
10:50:17 12 during the course of the prosecution. That also includes any
10:50:20 13 forensic reports that are created, whether it be crime scene
10:50:25 14 photographs or examinations of evidence and any sort of mental
10:50:28 15 health or expert reports that are created during the course of
10:50:30 16 the investigation.

10:50:31 17 Q. And are there as well some Supreme Court of the United
10:50:37 18 States rulings that exact upon a prosecutor's duty in a
10:50:41 19 criminal case?

10:50:41 20 MR. LOEVY: Objection, your Honor, to the law,
10:50:43 21 instruction on the law.

10:50:44 22 THE COURT: I think overruled, but let me just chat
10:50:48 23 with you briefly at sidebar about that.

10:51:00 24 (The following proceedings were had at sidebar outside the
10:51:00 25 hearing of the jury:)

10:51:00 1 THE COURT: I think -- it's pretty much a necessary
10:51:04 2 predicate for testimony of a witness like this, but I think
10:51:08 3 what I'm inclined to say is that to the extent that what the
10:51:12 4 witness says differs from any instruction that I give the jury
10:51:15 5 later, then you have to follow my instructions.

10:51:18 6 MR. NOLAND: Great. We have no problem with that.
10:51:22 7 He's going to reference braid material.

10:51:28 8 THE COURT: That's what I assume.

10:51:29 9 (The following proceedings were had in open court in the
10:51:30 10 presence and hearing of the jury:)

10:51:30 11 THE COURT: I am going to overrule the objection.
10:51:31 12 What I am going to say to the jury is if and to the extent
10:51:34 13 what a witness says differs from any instruction I give you
10:51:38 14 later on what the law is in this regard, you have to follow my
10:51:41 15 instruction.

10:51:41 16 Go ahead, Mr. Noland.

10:51:42 17 BY MR. NOLAND:

10:51:44 18 Q. Mr. Murray, the question is were there -- are there -- is
10:51:46 19 there some precedent, some rules by the Supreme Court of the
10:51:52 20 United States that exact a prosecutor's role in the discovery
10:51:55 21 process?

10:51:55 22 A. The U.S. Supreme Court by their opinions have required
10:51:59 23 prosecutors to provide any material that might be exculpatory,
10:52:04 24 in other words, which may help to show the defendant is not
10:52:07 25 the person who committed the crime, as well as any information

10:52:11 1 that may affect the credibility of witnesses who testify or
10:52:14 2 who are part of the investigation.

10:52:17 3 Q. Mr. Murray, does the law require that every scrap of paper
10:52:25 4 in a file on a case has to be produced?

10:52:28 5 A. Not every scrap of paper. The material -- the relevant
10:52:36 6 investigative material should be provided.

10:52:38 7 Q. Do you -- I next want to talk about how a prosecutor goes
10:52:44 8 about obtaining documents from the police department. I am
10:52:47 9 going to direct your attention to the 1980s time frame.

10:52:50 10 How would you go about getting documents from the
10:52:53 11 CPD?

10:52:53 12 A. The primary method that we would use to obtain the
10:52:57 13 investigative material would be by subpoena. We would also
10:53:02 14 use phone calls to the detectives if we were still missing
10:53:05 15 some reports and we would also use some of the forms that the
10:53:11 16 Chicago Police Department themselves used within their office
10:53:13 17 to obtain documents or photographs, things of that nature.
10:53:17 18 The two offices maintained an interoffice and intra office
10:53:22 19 mail service so we can send those forms by interoffice mail to
10:53:25 20 obtain those documents or photographs.

10:53:27 21 Q. And how does a police department discharge its duty in the
10:53:33 22 discovery process?

10:53:34 23 A. When they provide the investigative materials that are
10:53:37 24 requested by the prosecutor and they provide it to the
10:53:41 25 prosecutor's office.

10:53:41 1 Q. You mentioned subpoenas.

10:53:46 2 MR. NOLAND: Laura, if you could pull up defense 213,
10:53:50 3 page 23.

10:53:52 4 THE COURT: Sorry. Let me switch it over. There you
10:53:57 5 go. 213, you said?

10:54:00 6 MR. NOLAND: Yes, your Honor, page 23.

10:54:02 7 BY MR. NOLAND:

10:54:04 8 Q. Mr. Murray, showing you Defense Exhibit 213. What is that
10:54:08 9 document?

10:54:08 10 A. This is an example of a subpoena issued by a prosecutor in
10:54:17 11 a 1989 criminal case sent to the Chicago Police Department at
10:54:21 12 11th and state requesting all the relevant investigative
10:54:27 13 material.

10:54:33 14 MR. NOLAND: Laura, if you could tear out the part
10:54:35 15 about any and all police reports.

10:54:36 16 BY MR. NOLAND:

10:54:39 17 Q. Mr. Murray, this states any and all police reports, arrest
10:54:42 18 reports, rap sheets, street files also known as office unit or
10:54:46 19 working file, general progress notes, investigative files,
10:54:49 20 major crime worksheet, inventory slips, evidence technician
10:54:52 21 reports, and lab reports, prepared in connection with the
10:54:54 22 above-captioned case. And it goes on. Mr. Murray, why is
10:55:00 23 that kind of laundry list of things included in that subpoena?

10:55:04 24 A. I think part of it was sometimes documents had different
10:55:10 25 names, such as, you know, the investigative material could

10:55:14 1 also be known as a street file or a GPR or a note could be
10:55:18 2 known as a street file, so that's -- that language would be in
10:55:21 3 there including office unit or working file, general progress
10:55:25 4 reports. It's a little bit redundant, but it's to make it
10:55:29 5 clear when they're sending it the police department that any
10:55:32 6 sort of investigative materials that may be known by different
10:55:35 7 names should be provided.

10:55:36 8 Q. And just to back up a little bit. You started at the
10:55:41 9 office, the state's attorney's office in 1983?

10:55:43 10 A. December of 1983.

10:55:44 11 Q. Were you aware shortly before you started of a case that
10:55:50 12 some referred to as the street files case?

10:55:52 13 A. I am not sure when I became aware of it, but it was
10:55:56 14 decided before I became a prosecutor.

10:55:58 15 Q. So you always worked in the era after that case?

10:56:02 16 A. That's correct.

10:56:03 17 Q. So in the time -- your entire career, were you aware that
10:56:08 18 the Chicago Police Department had investigative files and
10:56:11 19 general progress reports and notes?

10:56:14 20 A. During my entire career I was aware of investigative files
10:56:17 21 that were maintained at the areas, yes.

10:56:19 22 Q. And in your experience, do you have an opinion about
10:56:22 23 whether or not the criminal defense attorneys that you dealt
10:56:24 24 with over the years had the same information, same knowledge?

10:56:28 25 MR. LOEVY: Your Honor, I just object to an

10:56:32 1 undisclosed opinion.

10:56:33 2 THE COURT: Let me see you at sidebar.

10:56:35 3 MR. LOEVY: I tell you what. I'll withdraw it.

10:56:36 4 THE COURT: Okay. The objection is withdrawn.

10:56:38 5 You can proceed.

10:56:38 6 THE WITNESS: It was my experience the prosecutors
10:56:42 7 and the criminal defense attorneys were aware of the way the
10:56:46 8 files were maintained.

10:56:47 9 BY MR. NOLAND:

10:56:48 10 Q. Sometimes criminal defense attorneys would send similar
10:56:51 11 subpoenas to the one up on the screen?

10:56:52 12 A. Yes, including some of the same descriptive terms that are
10:56:57 13 included in this exhibit were included in their subpoenas as
10:57:00 14 well.

10:57:00 15 Q. Mr. Murray, is this language, this kind of form language,
10:57:05 16 has this been used throughout the years?

10:57:07 17 A. Yes.

10:57:08 18 Q. So?

10:57:09 19 A. To my knowledge, all the way up until I left that office,
10:57:14 20 it's a very similar subpoena to this one here would be issued.
10:57:17 21 If there was more than one defendant, you might have more than
10:57:20 22 one defendants' names listed, but you might have -- but the
10:57:25 23 handle here has remained remarkably the same over the years.

10:57:30 24 Q. How would you then transmit the materials that you
10:57:33 25 received -- strike that.

10:57:34 1 What would you do with the materials you received
10:57:36 2 from the Chicago Police Department?
10:57:37 3 A. The materials I would copy them and initially create, use
10:57:44 4 them to create my answer to discovery, and then at the time I
10:57:48 5 filed the answer to discovery or maybe even before I filed the
10:57:51 6 answer to discovery, I would tender the documents in open
10:57:54 7 court to the criminal defense attorney.
10:57:56 8 Q. And would you produce everything that you had received?
10:57:59 9 A. Yes.
10:58:00 10 Q. Mr. Murray, what was your experience with respect to the
10:58:10 11 Chicago Police Department's compliance with subpoenas?
10:58:12 12 A. My experience was they complied with the subpoenas for the
10:58:17 13 materials requested.
10:58:18 14 Q. How about with respect to investigative files?
10:58:22 15 A. Same, that they complied with the subpoenas requesting the
10:58:27 16 investigative materials of the investigative files.
10:58:30 17 Q. In in your experience, were there times when you had to
10:58:34 18 follow up to get materials from the Chicago Police Department?
10:58:36 19 A. There would be occasions where maybe the final supp -- the
10:58:41 20 closing supplementary report had not been completed and
10:58:44 21 obviously there's -- maybe not obviously, but there's general
10:58:48 22 progress reports that are associated with that report, so
10:58:50 23 before it's completed or signed off by supervisory staff that
10:58:57 24 might not have been included in the investigative file. So
10:59:00 25 realizing that that material is missing, I would follow-up

10:59:04 1 either by phone calls or with another subpoena.

10:59:06 2 Q. Mr. Murray, were there ever times when you subpoenaed
10:59:14 3 investigative files or used this form subpoena that we just
10:59:17 4 looked at on a homicide case where you wouldn't get anything
10:59:21 5 in the investigative file which would include notes, any notes
10:59:25 6 from the investigative file or GPRs?

10:59:26 7 A. The times that I subpoenaed those documents, there was
10:59:35 8 always investigative file subpoena was complied with or GPRs
10:59:40 9 related to the investigation, interviews of witnesses or
10:59:42 10 information collected about witnesses.

10:59:43 11 Q. And how many homicide -- how many homicide cases did you
10:59:47 12 try?

10:59:48 13 A. I've tried probably at least a hundred homicide cases.

10:59:54 14 Q. And how many have you been involved -- additional ones
10:59:58 15 have you been involved in the discovery process working up the
11:00:02 16 case?

11:00:02 17 A. Discovery process a lot more. I was assigned to a felony
11:00:07 18 trial courtroom. There were numerous first degree murder
11:00:10 19 files that I would help working the file up, but I may not be
11:00:14 20 involved in the trial of it or the case may have entered a
11:00:18 21 plea of guilty and never went to trial.

11:00:20 22 Q. I'm going to ask you a hypothetical question. Assume
11:00:25 23 hypothetically that you sent one of those subpoenas that we
11:00:27 24 just looked at and when the file came back from the police
11:00:31 25 department, it didn't -- on a murder case, it didn't have any

11:00:35 1 detective notes or general progress reports. What would you
11:00:38 2 do in that situation?
11:00:39 3 A. I would usually call the detective assigned to the case
11:00:43 4 and ask him to bring the investigative file to the courthouse
11:00:49 5 so it could be copied.
11:00:50 6 Q. And would you look at -- you'd ask him to bring the
11:00:56 7 original investigative file?
11:00:57 8 A. Yes.
11:00:57 9 Q. And would you ask detectives to bring original
11:01:00 10 investigative files for other reasons as well?
11:01:02 11 A. The -- when we're getting close to finishing off all the
11:01:11 12 discovery documents or maybe there was a motion filed in the
11:01:13 13 case regarding the investigation, a motion filed by the
11:01:16 14 defense attorney, during that time period as we're getting
11:01:21 15 ready to proceed with that motion, we wanted to ensure that
11:01:23 16 all the documents had been provided and gave a chance to
11:01:27 17 examine the file at that point as well.
11:01:32 18 Q. If even after taking no steps, you still didn't get the
11:01:40 19 general progress notes on a homicide case, would there be
11:01:44 20 recourse in the court relative to the subpoena that had been
11:01:49 21 issued?
11:01:49 22 A. If a subpoena had been issued and if for some reason they
11:01:55 23 didn't comply with it, the court could order the Chicago
11:01:59 24 Police Department to comply.
11:01:59 25 Q. So assuming hypothetically if a criminal defense attorney

11:02:03 1 sent a subpoena to the Chicago Police Department for a
11:02:06 2 homicide investigative file and the criminal defense attorney
11:02:09 3 didn't receive any general progress reports, what would --
11:02:14 4 what in your experience -- first of all, do you recall that
11:02:17 5 happening?
11:02:17 6 A. There may be times where a criminal defense attorney
11:02:22 7 didn't get all the documents for whatever reason, and they
11:02:25 8 would usually come to me or my colleagues in the courtroom and
11:02:29 9 say I don't think I got everything here, and at that point,
11:02:34 10 the prosecutor would reach out to the police department to
11:02:37 11 make sure if they didn't have the documents, to make sure that
11:02:42 12 the original subpoena had been complied with and the documents
11:02:45 13 were made available both to the prosecutor and the criminal
11:02:48 14 defense attorney.
11:02:48 15 Q. And if the criminal defense attorney still felt that he or
11:02:51 16 she didn't get satisfaction from that request to the
11:02:53 17 prosecutor, would there be other things available to the
11:02:55 18 criminal defense attorney to follow up with with application
11:02:58 19 to the court?
11:02:59 20 A. They could apply to the court and ask the Court to make
11:03:04 21 the Chicago Police Department comply, but I don't think I ever
11:03:08 22 recall that happening.
11:03:08 23 Q. Mr. Murray, do you have an opinion based on your
11:03:12 24 experience whether or not the Chicago Police Department
11:03:14 25 complies with its discovery obligations and responses to

11:03:21 1 subpoena in homicide cases?

11:03:24 2 MR. LOEVY: Same objection as before, your Honor.

11:03:25 3 THE COURT: The one we dealt with at sidebar or the
11:03:31 4 one you withdrew.

11:03:32 5 MR. LOEVY: The opened the door.

11:03:34 6 THE COURT: The is objection is overruled.

11:03:35 7 BY MR. NOLAND:

11:03:35 8 Q. That's in your experience, Mr. Murray?

11:03:37 9 A. In my experience the Chicago Police Department did comply
11:03:40 10 with the subpoenas for investigative material in my
11:03:45 11 experience.

11:03:48 12 THE COURT: Mr. Noland, we are going to take a break
11:03:51 13 somewhere in here. I forgot to tell you. We are going to
11:03:53 14 take a lunch break a little earlier today, like 12:10
11:03:57 15 something like that. Are you changing topics?

11:03:58 16 MR. NOLAND: Yes.

11:03:59 17 THE COURT: We are going to break right here for ten
11:04:01 18 minutes.

11:04:35 19 (The jury leaves the courtroom.)

11:04:35 20 THE COURT: Can I just see the lawyers at sidebar for
11:04:37 21 a moment.

11:04:38 22 (The following proceedings were had at sidebar outside the
11:04:42 23 hearing of the jury:)

11:04:42 24 THE COURT: So I made a color copy for each party of
11:04:48 25 this. Let me just say one thing. We are going to talk about

11:05:02 1 this. What I don't want to have happen is I don't want to
11:05:05 2 have the neighborhood to be blanketed with police officers.
11:05:07 3 That would be extremely unadvisable. Don't be giving this to
11:05:10 4 people and say go figure out what's going on because that
11:05:15 5 doesn't happen for sort of average tagging in the City of
11:05:17 6 Chicago. We are going to talk about this first, and I wanted
11:05:19 7 you to have a copy of it.

11:05:19 8 All right.

11:05:20 9 MR. LOEVY: We are not going to talk about it now,
11:05:22 10 though?

11:05:22 11 THE COURT: No, after the lunch break. Don't have it
11:05:30 12 out. It's closed to the public.

11:17:39 13 (Short break.)

11:17:42 14 (The jury enters the courtroom.)

11:17:42 15 THE COURT: Everybody can have a seat. Mr. Noland.

11:17:44 16 BY MR. NOLAND:

11:17:46 17 Q. Mr. Morris, in this case back in January, did we contact
11:17:48 18 you to look at some materials?

11:17:50 19 A. Yes.

11:17:50 20 Q. And Mr. Murray, what did we ask you to do?

11:17:53 21 A. Asked to examine the Cook County state's attorney's office
11:18:05 22 files and compare them to the documents claimed to be missing
11:18:08 23 by the plaintiff.

11:18:09 24 Q. And did we also provide you ultimately some time later
11:18:12 25 with Mr. Michael Brasfield's report relative to some files

11:18:17 1 that he reviewed?

11:18:17 2 A. That was done somewhere in the beginning of the process
11:18:20 3 too. I don't remember the exact date, but his report was
11:18:23 4 provided as well.

11:18:23 5 Q. And Mr. Murray, did you make some observations after
11:18:29 6 reviewing Mr. Brasfield's report about the report?

11:18:34 7 A. Yes. I thought it had a fundamental flaw in it in that
11:18:43 8 Mr. Brasfield, he did a cold comparison between the criminal
11:18:47 9 defense attorney's files and the Chicago Police Department
11:18:55 10 investigative file's and if a page was in the investigative
11:18:57 11 file but not found in the criminal defense attorney's file, he
11:19:01 12 deemed that to be withheld by the Chicago Police Department.
11:19:05 13 The problem I had with that is he was not allowing for the
11:19:09 14 fact that these sometimes 20, 25 or 30 year old files were not
11:19:14 15 complete, nor also did he seek out the prosecutor's files to
11:19:22 16 examine them to see if the Chicago Police Department had
11:19:24 17 provided those investigative materials to the Cook County
11:19:27 18 state's attorney's office.

11:19:29 19 Q. And did you see in Mr. Brasfield's report whether or not
11:19:35 20 any qualitative assessment was made about the types of
11:19:39 21 documents that he asserted and the plaintiffs asserted were
11:19:43 22 so-called missing from the criminal defense attorney files
11:19:48 23 supplied to him?

11:19:49 24 A. No, it was merely a page count. In other words, he didn't
11:19:52 25 examine the page that was missing from the criminal defense

11:19:56 1 attorney. He didn't look at the page for what the substance
11:20:02 2 was, whether it was information at all or whether it was
11:20:07 3 investigative material or whether it was the cover of an
11:20:10 4 envelope, for example, did he not make that examination.

11:20:14 5 If it was investigative material, he also did not
11:20:17 6 examine to see if the information on that was first off, was
11:20:22 7 it relate would to the case at hand or was it somehow
11:20:27 8 misfiled. If it was related to the case at hand, was that
11:20:29 9 information somehow recorded elsewhere, maybe in a timed
11:20:33 10 report or another report.

11:20:34 11 Q. Can you please explain that. Why would you bring up the
11:20:37 12 information? What's the issue with information versus paper?

11:20:42 13 A. Well, some of the -- the pages or paper that was missing
11:20:48 14 was either not information or merely had the name of a
11:20:52 15 detective on the back of a piece of paper, so it was not
11:20:57 16 investigative material. It was how the -- maybe the report
11:21:02 17 was sent to a detective inside the office. It might have been
11:21:05 18 like I said a blank envelope, it could have been the envelope
11:21:08 19 that normally holds the photographs, so those pages by
11:21:12 20 themselves are not investigative material. They're just
11:21:15 21 pages.

11:21:16 22 Q. All right. And is it the information that you are
11:21:19 23 concerned with as the prosecutor?

11:21:21 24 A. Right. If there's -- if there's a note or report that
11:21:27 25 contains information, investigative material related to the

11:21:30 1 case, that's the information we, as prosecutors, need to
11:21:33 2 gather from the Chicago Police Department and then provide to
11:21:35 3 the criminal defense attorney during discovery and prior to
11:21:40 4 trial.
11:21:40 5 Q. Does it necessarily matter whether the information is on a
11:21:45 6 blank page, on a legal pad, on a general progress report for a
11:21:51 7 typewritten supplementary report, does it really matter to
11:21:54 8 you?
11:21:54 9 A. To me, it doesn't matter in the format or typed or
11:21:57 10 handwritten or what document was used as long as I obtain the
11:22:03 11 information.
11:22:03 12 Q. And did you understand that then my office under took
11:22:06 13 efforts to request the prosecutors' files of the corresponding
11:22:13 14 files that had been provided to Mr. Brasfield?
11:22:15 15 A. Yes.
11:22:16 16 Q. And how many -- just taking a step back, how many
11:22:23 17 investigative files, if you recall, does Mr. Brasfield were
11:22:28 18 supplied to Mr. Brasfield from the plaintiffs?
11:22:30 19 A. Something like 457 files were provided to the plaintiffs
11:22:34 20 and Mr. Brasfield.
11:22:35 21 Q. And how many criminal defense files did the plaintiffs and
11:22:40 22 Mr. Brasfield obtain, did the plaintiffs obtain?
11:22:44 23 A. 59.
11:22:44 24 Q. And how many of those 59 files did Mr. Brasfield rely upon
11:22:50 25 in his report, to refresh your recollection recollection?

11:22:52 1 A. At some point after the beginning of this whole process,
11:22:55 2 he narrowed it down to 51.
11:22:57 3 Q. And now going back to my original question, you were aware
11:23:01 4 that my office made requests of the state's attorney's office
11:23:04 5 for the state's attorney's office to try to find these 59
11:23:06 6 files that plaintiffs had initially identified?
11:23:10 7 A. Yes.
11:23:10 8 Q. And how many of those 59 files did the state's attorney's
11:23:15 9 office find?
11:23:15 10 A. They found.
11:23:16 11 Q. Let me ask you this, was it 43?
11:23:19 12 A. There was 43.
11:23:20 13 Q. And so ultimately, you -- were you able to then make a
11:23:25 14 comparison between some of the documents?
11:23:27 15 A. Yes, I was.
11:23:28 16 Q. And which documents were those?
11:23:30 17 A. The documents that the plaintiffs claimed were missing
11:23:35 18 from the criminal defense file, so then the examination was to
11:23:39 19 see if those documents were found in the prosecutors' files.
11:23:44 20 Q. And did my office and people from my office assist in
11:23:50 21 pouring through the prosecutors' files to see if those pieces
11:23:53 22 of paper were actually in there?
11:23:54 23 A. Yes.
11:23:55 24 Q. And then did we bring that to your attention?
11:23:57 25 A. Yes, after people from your office made that examination,

11:24:02 1 what they would do is take a copy of the alleged missing
11:24:08 2 paperwork, compare it to the prosecutors' file, at this time,
11:24:12 3 the prosecutor's office was still maintaining their files in
11:24:16 4 an office so it was over in their office. If the people from
11:24:19 5 your law firm, if they found that the alleged missing document
11:24:23 6 was in the prosecutor's file, they'd put a Magic Marker slash,
11:24:30 7 primarily blue but whatever marker they had so I would know
11:24:35 8 going forward that that page that was alleged to be missing
11:24:38 9 was actually found in the prosecutor's file.

11:24:39 10 Q. And at some time later did you -- is it your understanding
11:24:43 11 that my office actually received these 43 prosecutors' files?

11:24:47 12 A. At some time later, they were all provided, all the files
11:24:51 13 were provided to your office.

11:24:52 14 Q. And did I give you disks or some type of zip drive with
11:24:57 15 respect -- of those 43 prosecutors' files?

11:25:00 16 A. Yes.

11:25:00 17 Q. And did you confirm that the blue slashed pages we found
11:25:08 18 in the prosecutors' files were in fact in the prosecutors'
11:25:10 19 files?

11:25:10 20 A. Sometime later I did.

11:25:12 21 Q. How did you do that?

11:25:14 22 A. Just looking at the document that -- the page number that
11:25:20 23 was alleged to be missing and comparing it to the documents
11:25:23 24 that were found, so I could see that, yes, the blue slashed
11:25:27 25 documents were actually in the prosecutors' file.

11:25:30 1 Q. Mr. Murray, I have just rolled up a series of files. What
11:25:54 2 are these?

11:25:54 3 A. Those are the 43 Chicago Police Department investigative
11:26:02 4 files in which a corresponding Cook County state's attorney's
11:26:07 5 office file was also located.

11:26:12 6 MR. NOLAND: Your Honor, I spoke to Mr. Loevy. I
11:26:13 7 wasn't planning on identifying each one of these for the
11:26:16 8 record. I do have a list of what they are.

11:26:17 9 THE COURT: Okay.

11:26:19 10 BY MR. NOLAND:

11:26:20 11 Q. And so these are the Chicago Police Department
11:26:24 12 investigative files?

11:26:26 13 A. Right.

11:26:26 14 Q. And are these what you understand the plaintiffs to be
11:26:28 15 characterizing as the so-called basement files?

11:26:32 16 A. That's the phrase I've seen, yes.

11:26:34 17 Q. And what -- do these -- what do these files look like to
11:26:39 18 you?

11:26:39 19 A. They are the xeroxed copies of the original investigative
11:26:47 20 file that was maintained at the area where the detectives
11:26:50 21 would be working on the case, so it's not the RD file, it's
11:26:53 22 not the file that's typed up. It's maintained downtown.

11:26:58 23 Q. And would these 43 files in front of you, have you
11:27:01 24 reviewed all of these?

11:27:02 25 A. Yes.

11:27:02 1 Q. And were these typical of the investigative files that you
11:27:07 2 would receive in the course of your 32 years at the Cook
11:27:12 3 County state's attorney's office?

11:27:12 4 A. Yes.

11:27:12 5 Q. Was there anything unusual about these files?

11:27:14 6 A. Nothing unusual about these that I saw. It was a typical
11:27:20 7 investigative file.

11:27:21 8 Q. And what did -- did you compare these files to something?

11:27:25 9 A. I compared those files to the documents that were found in
11:27:34 10 the Cook County state's attorney's office files.

11:27:37 11 Q. The next group of documents I am going to put in front of
11:27:42 12 you, Mr. Murray, are defense Group Exhibit 392. And we had
11:27:56 13 discussed this beforehand, Mr. Murray, of what these documents
11:27:59 14 we compiled?

11:28:00 15 A. Yes.

11:28:01 16 Q. What are those?

11:28:02 17 A. That exhibit is the pages that were claimed to be missing
11:28:06 18 by the plaintiff, missing from the criminal defense attorney
11:28:09 19 file.

11:28:10 20 Q. And if I could actually put these on the floor, I am
11:28:28 21 putting 392 on the ground right next to the stack of
11:28:31 22 investigative files.

11:28:34 23 Mr. Murray, so 392 are the documents that the
11:28:38 24 plaintiff had identified and Mr. Brasfield that from the 43 I
11:28:46 25 have that they claim were so-called missing from the criminal

11:28:48 1 defense file; is that right?

11:28:49 2 A. That's right.

11:28:50 3 Q. All right. Showing you defense 393?

11:28:55 4 A. Yes.

11:28:55 5 Q. Mr. Murray, what is this next stack of documents?

11:28:59 6 A. Those are the documents that were found in the Cook County
11:29:08 7 state's attorney's files, so from the original stack that the
11:29:11 8 plaintiff claimed were missing, the criminal defense files,
11:29:14 9 those files were actually found in the state's attorney foils.

11:29:19 10 Q. Is there a Bates stamp at the?

11:29:21 11 A. Yes, the format for the Bates stamp is SA0-N F and then a
11:29:27 12 number of digits after that.

11:29:30 13 Q. What would be the SA0 signify?

11:29:32 14 A. The state's attorney's office.

11:29:33 15 Q. It would show that these documents came from the state's
11:29:38 16 attorney's office files?

11:29:38 17 A. Right.

11:29:38 18 Q. And, Mr. Murray, I'm showing you what I believe is Defense
11:29:50 19 Exhibit 394. What is Defense Exhibit 394?

11:29:54 20 A. 394 are the documents that were not found in the
11:30:02 21 prosecutor's file.

11:30:03 22 Q. So these would be the documents from these 43
11:30:08 23 investigative files that the plaintiffs identified that we
11:30:12 24 were unable to locate currently in the state's attorney's
11:30:17 25 files?

11:30:17 1 A. That's correct.

11:30:18 2 Q. So Mr. Murray, what did you do then with respect to -- you
11:30:27 3 were working on this, this was an ongoing process is that
11:30:30 4 fair?

11:30:31 5 A. That's fair.

11:30:31 6 Q. We were supplying you information about what was found in
11:30:35 7 the state's attorney's files as you worked on the case?

11:30:39 8 A. That's correct.

11:30:39 9 Q. You spent a lot of time on this case?

11:30:41 10 A. Yes.

11:30:41 11 Q. How much?

11:30:42 12 A. Over 413 hours.

11:30:47 13 Q. And what's your hourly rate?

11:30:49 14 A. \$200 an hour.

11:30:50 15 Q. And so what does that total up?

11:30:52 16 A. Approximately \$83,000.

11:30:53 17 Q. And you're going to be issuing a bill to us and the City
11:30:58 18 of Chicago for that?

11:30:58 19 A. That's correct.

11:30:58 20 Q. So what did you do in all that time with respect to this
11:31:03 21 case?

11:31:03 22 A. Well, when we get down to the pages that are not all the
11:31:10 23 work into examining the pages themselves, but now a lot of the
11:31:15 24 time consuming part of it was examining the documents to see
11:31:18 25 are they investigative material or not, and if if they are

11:31:25 1 ostensibly investigative material trying to determine their
11:31:29 2 relevance to the case, are they relevant to this case or
11:31:32 3 somehow misfiled, and if they are relevant to the case, is it
11:31:36 4 material found elsewhere in documents provided to the criminal
11:31:40 5 defense attorney.

11:31:40 6 Q. And these are -- you were doing that on 59 separate murder
11:31:45 7 investigations; is that right?

11:31:46 8 A. That's correct.

11:31:46 9 Q. And did you then write 116-page single spaced report based
11:31:56 10 on all this paper you had looked at?

11:31:58 11 A. Yes.

11:31:58 12 Q. And in here do you have descriptions of the, summary
11:32:06 13 descriptions of the facts of each one of these homicides?

11:32:08 14 A. Right, of the 43 cases here but also of the total 59 cases
11:32:14 15 I tried to compile a relatively brief spatial summary of the
11:32:22 16 crime and the result of the prosecution was before any other
11:32:26 17 examination took place.

11:32:27 18 Q. Mr. Murray, based on the documents that were found in the
11:32:34 19 state's attorney file from these 43 files, investigative
11:32:37 20 files, do you have an opinion about whether or not the Chicago
11:32:42 21 Police Department produced these 43 investigative files in the
11:32:45 22 course of the criminal discovery process for these 43 cases?

11:32:49 23 MR. LOEVY: Objection to foundation, your Honor.

11:32:50 24 THE COURT: Overruled.

11:32:55 25 THE WITNESS: My opinion is that the Chicago Police

11:32:57 1 Department did comply with their requirements of providing
11:33:02 2 investigative material to the prosecutors' office and from
11:33:07 3 them to the defense attorney.

11:33:08 4 MR. LOEVY: Your Honor, move to strike as
11:33:09 5 nonresponsive to the question.

11:33:13 6 THE COURT: Let me just go back and look at
11:33:16 7 something. Yeah, the last part of the opinion was not
11:33:28 8 responsive and I think is beyond what is permitted. So the
11:33:33 9 answer is stricken. You're -- let me just talk to you at
11:33:37 10 sidebar for a second.

11:33:45 11 (Sidebar.)

11:33:45 12 THE COURT: You asked him about Chicago Police
11:33:48 13 Department complying with his obligations and he tacked on
11:33:50 14 something about providing stuff to defense counsel.

11:33:52 15 MR. NOLAND: You're right. I think I can lay the
11:33:55 16 foundation for him to do that.

11:33:56 17 THE COURT: Yeah. You need to work through some
11:33:59 18 steps. Was that your objection?

11:34:00 19 MR. LOEVY: No. My objection was the question Dan
11:34:02 20 asked was is it your opinion they turned over these
11:34:04 21 investigative files, and then the witness said, I believe they
11:34:06 22 turned over the information and documents. He's implying --

11:34:09 23 THE COURT: Well, that's a matter for cross, though.
11:34:10 24 Nonresponsiveness is really more an objection for the
11:34:14 25 questioner, I think.

11:34:15 1 MR. LOEVY: My foundation objection is he can't
11:34:18 2 answer --

11:34:18 3 THE COURT: That wasn't your objection. Your
11:34:19 4 objection was nonresponsive.

11:34:22 5 MR. LOEVY: All right. I am making a foundation
11:34:23 6 objection. That's what I meant. He can't say that those
11:34:25 7 files were or weren't turned over. He didn't even purport to
11:34:29 8 the first time around. He said I think the documents and the
11:34:34 9 information got turned over. He can't say I think those 59
11:34:34 10 files were turned over.

11:34:34 11 THE COURT: I don't think he said files.

11:34:35 12 MR. LOEVY: That's what the question was, files.

11:34:37 13 MR. NOLAND: The pages.

11:34:38 14 THE COURT: Let's just back up a few steps. I will
11:34:41 15 strike the question and answer, and you can just kind of do it
11:34:43 16 over.

11:34:46 17 MR. NOLAND: Thanks, Judge.

11:34:47 18 (The following proceedings were had in open court in the
11:34:48 19 presence and hearing of the jury:)

11:34:48 20 THE COURT: So the question and answer are stricken.
11:34:50 21 The jury is directed to disregard it. Mr. Noland is going to
11:34:53 22 back up a couple of stems. Go ahead.

11:34:54 23 BY MR. NOLAND:

11:34:56 24 Q. Mr. Murray, you talked about the criminal discovery
11:34:58 25 process and the obligations in that regard?

11:35:01 1 A. Yes.

11:35:01 2 Q. What is -- what was in your experience in your practice,
11:35:04 3 what would you do with documents that you received from the
11:35:09 4 Chicago Police Department?

11:35:09 5 A. I would provide them to the criminal defense attorney, I
11:35:14 6 would also use them myself in my case -- in my case and in my
11:35:18 7 preparation of my answer to discovery.

11:35:19 8 Q. And when the comparison was made between these
11:35:23 9 investigative files and the state's attorney's files, did you
11:35:27 10 form an opinion about whether or not the documents in these 43
11:35:32 11 files were in the state's attorney's files?

11:35:35 12 A. Yes, they were for the most part.

11:35:38 13 Q. For the most part except for this stack Exhibit 394,
11:35:42 14 right?

11:35:42 15 A. That's correct.

11:35:43 16 Q. So based upon that, do you have an opinion about whether
11:35:46 17 or not these documents in these files were supplied by the
11:35:49 18 Chicago Police Department to the prosecutors and that the
11:35:52 19 practice would have been to turn them over to the criminal
11:35:54 20 defense attorneys?

11:35:55 21 MR. LOEY: Same objection.

11:35:56 22 THE COURT: Overruled.

11:35:56 23 THE WITNESS: It's my -- I believe my opinion that
11:35:59 24 they were provided by the Chicago Police Department and then
11:36:01 25 turned -- to the state's attorney's office and then tendered

11:36:05 1 to the criminal defense attorney.

11:36:06 2 BY MR. NOLAND:

11:36:09 3 Q. Mr. Murray, you brought -- I saw you walk in with a brown
11:36:14 4 folder, are he had weld?

11:36:16 5 A. Yes.

11:36:16 6 Q. Do you have a copy of this Exhibit 394 in that folder?

11:36:21 7 A. Yes, I do.

11:36:22 8 Q. In preparation for trial here today, you've made some post
11:36:27 9 it and stickies so we can move this as quickly as we can; is
11:36:27 10 that right?

11:36:31 11 A. That's true. Yes.

11:36:31 12 Q. Okay. Mr. Murray, I'm going to ask you to turn to the
11:36:40 13 first grouping of documents in defense 394, and it's Bates
11:36:53 14 stamped 394, 1 through 236. Okay?

11:37:06 15 A. Okay.

11:37:07 16 Q. Mr. Murray, what times of documents are these?

11:37:10 17 A. The first grouping -- well, they're primarily
11:37:18 18 administrative -- I would term them administrative documents.

11:37:21 19 MR. NOLAND: Laura, could you pull up page number D
11:37:26 20 394, the first page.

11:37:28 21 BY MR. NOLAND:

11:37:48 22 Q. The first -- this page 394, defense 394, Mr. Murray, that
11:37:55 23 is displayed to the jury, what is this document?

11:37:57 24 A. It's a Chicago Police Department form which is entitled
11:38:00 25 investigative file control.

11:38:01 1 Q. What's that?

11:38:02 2 A. It's a -- actually, it's more of a card rather than a full
11:38:07 3 8 and a half by 11 inch document. The Chicago Police
11:38:11 4 Department uses it to designate when police personnel sign out
11:38:16 5 the investigative file from the area for whatever reasons. In
11:38:20 6 other words, the file is maintained at the area in a
11:38:24 7 sergeant's office, and whenever the file is taken out of the
11:38:28 8 sergeant's office, this card is filled out and left in its
11:38:31 9 place and the file is taken out.

11:38:33 10 Q. And we counted up in this remainder pages that we couldn't
11:38:38 11 now find in the prosecutor's files, we totalled about 22 of
11:38:42 12 these?

11:38:42 13 A. 22 pages, yes.

11:38:43 14 Q. Is there any investigative information at all on these
11:38:46 15 pages?

11:38:46 16 A. None.

11:38:48 17 MR. NOLAND: Laura, could you go to page D 394.
11:39:06 18 394-023.

11:39:18 19 BY MR. NOLAND:

11:39:19 20 Q. What is this document, Mr. Murray?

11:39:20 21 A. It's another police department detective, this one is
11:39:25 22 entitled to the daily mainly incident log.

11:39:28 23 Q. Can you explain to the jury what the daily mainly incident
11:39:30 24 log is?

11:39:31 25 A. The detective difficulties maintained a daily running log

11:39:36 1 of major incidents that happened during that shift or during
11:39:41 2 that part of the day. It's maintained by a sergeant of the
11:39:46 3 detective division who acts as a watch commander. It lists
11:39:50 4 just what it says major incidents, whether it be usually a
11:39:54 5 murder case, but it could also list other page crimes that may
11:39:59 6 occur during the course of that shift.

11:40:00 7 Q. Where does the sergeant get the information to include in
11:40:04 8 this log?

11:40:04 9 A. The sergeant gets all the information from the detectives
11:40:07 10 who are actually investigating the case or have been assigned
11:40:10 11 to investigate the case.

11:40:11 12 Q. And is this information then derivative of information
11:40:17 13 from the supplementary reports?

11:40:19 14 A. That's correct. The sergeant does not personally -- is
11:40:24 15 not personally involved in the investigation.

11:40:26 16 Q. How many pages of this document are there?

11:40:28 17 A. 42.

11:40:29 18 Q. So would you have an opinion that the information in those
11:40:38 19 daily mainly incident logs are included in -- generally
11:40:41 20 included in supplementary reports and tendered in the criminal
11:40:45 21 discovery process?

11:40:46 22 A. Yes, the information is taken from the detectives who are
11:40:51 23 compiling either their general progress reports or their
11:40:54 24 supplementary reports. This document is provided to the chief
11:40:57 25 of detectives and possibly the superintendent for their

11:41:01 1 review.

11:41:02 2 Q. Just in case they get a phone call from the media or some
11:41:05 3 higher up to see what's going on in your area on that
11:41:09 4 particular day?

11:41:09 5 A. That's correct.

11:41:10 6 Q. The next group of documents?

11:41:12 7 MR. NOLAND: Laura, this would be D 394, page 65.

11:41:16 8 BY MR. NOLAND:

11:41:17 9 Q. The next group of documents you compiled are -- what are
11:41:21 10 these?

11:41:21 11 A. It's the investigative file inventory. It's a document,
11:41:27 12 it's a listing of the documents that are in the investigative
11:41:32 13 file.

11:41:32 14 Q. And would you say these are investigative or
11:41:37 15 administrative in nature?

11:41:38 16 A. Administrative in nature.

11:41:39 17 Q. And did you receive these from time to time in your
11:41:43 18 career?

11:41:44 19 A. Yeah, in response to subpoenas I sent for the
11:41:50 20 investigative file, they would be on occasion included in the
11:41:53 21 response to a subpoena.

11:41:53 22 Q. And if you got them, what would you do with them?

11:41:56 23 A. If I got them, I would provide them to the criminal
11:41:58 24 defense attorney.

11:41:59 25 Q. Did you ever make a point of -- if you didn't get this

11:42:03 1 document reaching out for anybody to try to get it?

11:42:05 2 A. No.

11:42:05 3 Q. Why not?

11:42:06 4 A. It was not part of the investigation. In other words,
11:42:11 5 there's no interviews of witnesses, there's no forensic
11:42:14 6 evidence gathered or any of that nature. It's just a listing
11:42:17 7 of the documents that are in the file.

11:42:18 8 Q. Do you have any recollection of any criminal defense
11:42:20 9 attorney ever asking you, say, hey Bernie, I didn't get the
11:42:26 10 investigative file inventory for this one, can you go ask for
11:42:28 11 it?

11:42:28 12 A. In my experience, criminal defense attorney never asked me
11:42:33 13 for it.

11:42:33 14 Q. How many pages are in this exhibit?

11:42:35 15 A. There are 51 pages.

11:42:37 16 Q. Turning to the next grouping, Laura, could you turn to
11:42:41 17 page D 394, page 116.

11:42:44 18 BY MR. NOLAND:

11:42:49 19 Q. Mr. Murray, what's this -- how many pages are
11:42:51 20 approximately in this grouping?

11:42:53 21 A. It's approximately 23.

11:42:54 22 Q. And what have you grouped together here?

11:42:58 23 A. These are memos or on occasion maybe a subpoena in here
11:43:05 24 for -- first off the memos are from the office of the
11:43:08 25 superintendent, the office of legal affairs. It's usually a

11:43:12 1 request for material from the investigative file in response
11:43:15 2 to a civil subpoena often filed years later and often filed
11:43:21 3 after the criminal case has long been closed and prosecuted.

11:43:26 4 Q. So would you have an opinion -- are these investigative
11:43:30 5 relative to who did the murder in the case at issue?

11:43:35 6 A. No, they are not investigative.

11:43:36 7 Q. The next grouping of documents?

11:43:41 8 MR. NOLAND: Laura, if you could bring up page 139.

11:43:43 9 BY MR. NOLAND:

11:43:46 10 Q. What are these?

11:43:46 11 A. These are court attendance reports. It's another
11:43:55 12 administrative document that's created by the Chicago Police
11:44:00 13 Department to track when a detective or a police officer is
11:44:04 14 testifying in court. I am not exactly sure the reasons they
11:44:09 15 compile those, but they're administrative. They're often
11:44:13 16 created at the time a witness is testifying at the actual
11:44:17 17 trial or maybe at a motion. It has no investigative material
11:44:20 18 at all.

11:44:20 19 Q. And about how many of these are there in this group?

11:44:24 20 A. 13.

11:44:26 21 MR. NOLAND: Laura, can you turn to page 152.

11:44:30 22 BY MR. NOLAND:

11:44:36 23 Q. Then we have grouped together the next group of 13 pages
11:44:40 24 or so. What are these documents in your opinion?

11:44:43 25 A. In my opinion, these documents have been misfiled.

11:44:50 1 Q. And how did you determine that these documents were
11:44:53 2 misfiled in general?

11:44:54 3 A. In general.

11:44:56 4 MR. LOEVY: Objection, your Honor. He has to
11:44:57 5 foundation.

11:45:01 6 THE COURT: He can explain the answer. Overruled.

11:45:03 7 THE WITNESS: Well, I would examine the documents to
11:45:07 8 determine their relevance to the case that the investigative
11:45:15 9 file they are found in and try and determine if any of the
11:45:17 10 information on the document related to the investigative file.

11:45:21 11 MR. NOLAND:

11:45:23 12 BY MR. NOLAND:

11:45:24 13 Q. And with this particular case we are looking at was this
11:45:28 14 one solved in the summer of 1999?

11:45:31 15 A. Right. This case none of the names on here related to any
11:45:34 16 names in the investigative file or the RD file and one of the
11:45:39 17 names on the bottom right side, it lists that the person had a
11:45:45 18 2000 resisting and obstructing case eluding the police and
11:45:52 19 there was a warrant for him for that case. This case was a
11:45:55 20 1999 case, so a 2000 resisting and obstructing, and this case
11:46:00 21 was solved in 2000 -- I'm sorry -- in the preceding year, so
11:46:06 22 the resisting obstruction case could not have happened. In
11:46:10 23 addition to the names not appearing in the police reports,
11:46:13 24 that indication there assumes to me that it's from a later
11:46:16 25 case.

11:46:16 1 Q. Just by way of another example, Laura, could you turn to
11:46:22 2 page 73. I'm sorry, Laura, page 73. My mistake. I have
11:47:07 3 given the wrong number, 156.

11:47:09 4 BY MR. NOLAND:

11:47:25 5 Q. Can you start describing while we're pulling it up.

11:47:32 6 This is an Illinois State Police lab report?

11:47:34 7 A. Yes, it's an Illinois State Police lab report from April
11:47:38 8 19th, 2002. The RD on this case is not the RD in the file
11:47:47 9 that it was found. And the name of the victim is not the
11:47:51 10 victim from the case in which this document was found.

11:47:58 11 Q. The victim here states Tyrone Taylor?

11:48:02 12 A. Yes.

11:48:02 13 Q. But that wasn't the victim in this particular case?

11:48:05 14 A. It is not. It's actually a two-page document. So that
11:48:07 15 led me to believe it was misfiled.

11:48:09 16 Q. And there is a series of other documents in here that you
11:48:17 17 made the same analysis to determine that the documents were
11:48:19 18 misfiled?

11:48:20 19 A. That's correct.

11:48:29 20 MR. NOLAND: Laura, can you turn to page 165, please.

11:48:32 21 BY MR. NOLAND:

11:48:41 22 Q. This grouping of documents is about how many pages that we
11:48:44 23 put together, Mr. Murray?

11:48:45 24 A. 62 pages.

11:48:46 25 Q. And what in your opinion are these documents?

11:48:48 1 A. These are documents that have no investigative material,
11:48:53 2 sometimes no material at all.

11:48:54 3 Q. So by way of example, this first page, what's this?

11:48:58 4 A. It's a name, s-w-i-t-s-k-i, and then A crosshatch 4 V C.
11:49:08 5 Switski is the name of a violent crimes detective, A is area
11:49:14 6 four and V C refers to violent crimes.

11:49:17 7 Q. Why do you think that this document is not investigative?

11:49:19 8 A. The practice of in the Chicago Police Department that they
11:49:26 9 were sending maybe a rap sheet or an arrest report or a lab
11:49:30 10 report inside their own office, they send it to each other,
11:49:34 11 the agency that was sending it to the detective would write
11:49:37 12 his name on the back of the envelope -- sorry, the back of the
11:49:45 13 document. Then one of two things would happen, it would go in
11:49:49 14 an envelope and sent through inn he, the document would be
11:49:54 15 folded over and stapled, so in effect his name on the document
11:49:58 16 is the outside of a mailing envelope. That would also happen
11:50:04 17 -- I'm sorry. That would happen if the documents were sent
11:50:07 18 inside the Chicago Police Department.

11:50:07 19 Q. And do you recall what this -- what this name Switski was
11:50:11 20 on the back of in this particular case?

11:50:13 21 A. It was on the back of -- if my recollection is correct, it
11:50:20 22 was on the back of an arrest report.

11:50:22 23 Q. There's a lot of these types much documents in this
11:50:25 24 grouping of detective's names; is that right?

11:50:28 25 A. That's right.

11:50:29 1 Q. Generally speaking, what kinds of documents were being
11:50:31 2 sent to detectives?
11:50:32 3 A. Commonly, they would be arrest reports, wrap sheets, and
11:50:37 4 forensic reports such as lab reports.
11:50:41 5 Q. In this particular document, in the upper half, you can
11:50:44 6 see does that appear to be anything that would indicate how
11:50:47 7 this was sent?
11:50:48 8 A. Yeah, in the top above the -- slightly above the letter S,
11:50:57 9 you can see the staple holes, two staples holes, so as I
11:51:01 10 described before, the documents could also be followed would
11:51:04 11 over and stapled, and with this one, that could be an
11:51:08 12 indication of what happened here.
11:51:09 13 Q. By the way, was Switski's name in this investigative file
11:51:13 14 in other places?
11:51:13 15 A. Yes, he was a detective assigned to this case and his name
11:51:16 16 was throughout the supplemental and investigative material.
11:51:20 17 Q. Would you see any reason whatsoever to identify this
11:51:22 18 document as missing investigative material?
11:51:24 19 A. No.
11:51:25 20 Q. Did Mr. Brasfield do that?
11:51:27 21 A. He did.
11:51:30 22 MR. NOLAND: Can we go to the next page, Laura.
11:51:33 23 BY MR. NOLAND:
11:51:34 24 Q. What's this?
11:51:34 25 A. This document lists the RD number of the case. That it's

11:51:40 1 a homicide file and the 83-11 indicates that it's a 1983 case,
11:51:48 2 maybe the 11th investigation handled by that area.

11:51:51 3 Q. Does this have investigative information on the case?

11:51:54 4 A. No, it does not. It's just the title of the case.

11:51:58 5 MR. NOLAND: Laura, can you go to page 170.

11:52:01 6 BY MR. NOLAND:

11:52:08 7 Q. Is this another example of just a detective's name?

11:52:11 8 A. Right.

11:52:11 9 Q. And again?

11:52:13 10 A. That's his name, his star and his unit assignment. And
11:52:19 11 he's a detective whose name was also present in the other
11:52:22 12 police reports.

11:52:22 13 Q. And there are many pages like this one in this group of
11:52:26 14 materials that we put together?

11:52:27 15 A. That's correct.

11:52:30 16 MR. NOLAND: Laura, could you go to page 189.

11:52:45 17 BY MR. NOLAND:

11:52:46 18 Q. What's this show?

11:52:47 19 A. That's the investigative file inventory document we
11:52:51 20 discussed earlier. In this instant, it's just a blank one.
11:52:56 21 There is no indication of it being used in any investigation.

11:53:02 22 MR. NOLAND: Laura, can you go to page 193.

11:53:04 23 BY MR. NOLAND:

11:53:08 24 Q. What's this, Mr. Murray?

11:53:09 25 A. That's the back of a property inventory sheet. When the

11:53:15 1 Chicago Police Department during the course of investigation
11:53:22 2 grab or accumulate property, it might be in a homicide case,
11:53:25 3 it could be a weapon, it could be shell casings, it could be
11:53:29 4 bloody clothes or something like that, they have a property
11:53:32 5 inventory system for maintaining that evidence for testing and
11:53:35 6 use at trial. So the front side of this document is that
11:53:38 7 inventory sheet. The backside is the use for inventories of
11:53:46 8 items that are taken pursuant to the search warrant.

11:53:52 9 Throughout the plaintiff's expert's report, there are
11:53:58 10 a number of these back sides to the inventory sheet which are
11:54:02 11 blank which have no information at all.

11:54:04 12 Q. And he was claiming all this stuff is investigative
11:54:07 13 material that he was counting against the police department?

11:54:09 14 A. Right.

11:54:10 15 MR. LOEVY: Objection, your Honor, he made no such
11:54:12 16 claim.

11:54:13 17 THE COURT: Overruled. The jury has heard the
11:54:18 18 evidence and they'll make their own decisions about whether
11:54:22 19 that's right or not.

11:54:23 20 BY MR. NOLAND:

11:54:24 21 Q. Mr. Murray, do you remember in his report, he had some
11:54:26 22 attachments where he had a whole column that was labeled
11:54:29 23 missing investigative material. Do you remember that?

11:54:32 24 A. Yes.

11:54:33 25 Q. And in that column, did he list -- did he include all of

11:54:37 1 these documents?

11:54:38 2 A. He included them throughout his report as that type of
11:54:45 3 material and then I believe he summarized it in that column on
11:54:49 4 his exhibit.

11:54:51 5 Q. And you focused more on his report and some other
11:54:54 6 attachments?

11:54:55 7 A. Yes.

11:54:55 8 Q. And based upon a review of his report, is there no doubt
11:54:58 9 he was counting these things as missing investigative
11:55:01 10 material?

11:55:01 11 A. That's true.

11:55:05 12 MR. NOLAND: Can you go to the next page, Laura,
11:55:07 13 which would be 224. Not the next page, but can you go to 224.

11:55:14 14 BY MR. NOLAND:

11:55:22 15 Q. What's this?

11:55:22 16 A. It appears to be the back of a case report, but, again,
11:55:32 17 it's blank. It's not been used in a case at all.

11:55:37 18 Q. Can you go to the next page, 225.

11:55:40 19 What's this?

11:55:42 20 A. It's a Chicago Police Department mailing envelope am that
11:55:49 21 has no other markings on it other than preprinted information
11:55:53 22 that it's a Chicago Police Department mailing envelope.

11:55:55 23 Q. Mr. Murray, do you have an opinion about whether any of
11:55:59 24 the documents in this stack, all these blank documents and
11:56:02 25 detective's names and these other things, are these

11:56:05 1 investigative in any way?

11:56:06 2 A. They are not investigative, they did not contain
11:56:09 3 investigative material.

11:56:10 4 Q. Mr. Murray, I am going to direct you to the next grouping
11:56:21 5 that we put together. What can you summarize the grouping of
11:56:30 6 documents in our next group, beginning with on yours 170 --
11:56:39 7 did I forget one? Yeah.

11:56:44 8 What's this next grouping of documents,
11:56:46 9 administrative documents in your opinion?

11:56:48 10 A. It's a grouping of 10 pages which were requests for
11:56:54 11 documents or requests for photographs. It wasn't the actual
11:57:00 12 document or photograph. It was a request for it. In other
11:57:05 13 words, a detective was looking for maybe mug shots or he was
11:57:09 14 looking for crime scene photographs and he would send a
11:57:13 15 request through his inner office mail for those documents, for
11:57:17 16 those photographs.

11:57:18 17 MR. NOLAND: Laura, pull up 227.

11:57:20 18 BY MR. NOLAND:

11:57:21 19 Q. This is one of those requests up in the top left-hand
11:57:24 20 corner?

11:57:24 21 A. Yes, it's a request for evidence identification
11:57:26 22 photographs.

11:57:26 23 Q. Next page, Laura.

11:57:29 24 BY MR. NOLAND:

11:57:30 25 Q. In the middle, there is a checked off box that says page

11:57:34 1 228. Is this another request?

11:57:37 2 A. In this one of the detective is requesting the office of
11:57:42 3 emergency communication that they archive all voice
11:57:46 4 transmissions relative to an incident and requesting a
11:57:50 5 recording, so he's asking for those -- that those items not be
11:57:56 6 erased or destroyed and to give him a copy of those recordings
11:58:00 7 on a cassette.

11:58:01 8 Q. And, Mr. Murray, are there similar documents -- let's do a
11:58:07 9 couple more.

11:58:08 10 If you go to the next page, Laura, 229.

11:58:15 11 A. That's another request for evidence identification
11:58:18 12 photographs as part of the investigation. So this is no the
11:58:23 13 -- the photograph, it's the interoffice request asking for the
11:58:28 14 photograph.

11:58:28 15 Q. So is it the photographs that are important and not the
11:58:32 16 request?

11:58:32 17 A. Right. The request -- the photographs are what's
11:58:37 18 important.

11:58:38 19 MR. NOLAND: Can you go to the next page, Laura,
11:58:40 20 let's make it 231.

11:58:43 21 BY MR. NOLAND:

11:58:44 22 Q. Now, what's this one? Are we on 230?

11:58:46 23 A. When the forensic investigators, Chicago police officers,
11:58:49 24 when they would take pictures at a crime scene, they would
11:58:56 25 take a picture of this, I guess it would be a document that

11:58:59 1 they created so they would be able to know back in the old
11:59:04 2 days on their roll of film, they would know when a new case
11:59:07 3 started and an older set of photographs ended. So this is the
11:59:12 4 information that's available throughout the file, the RD
11:59:16 5 number, the date the photographs were taken and the
11:59:20 6 photograph's names and stars and their unit assignment.
11:59:23 7 Q. When you got crime scene photographs on a particular RD
11:59:25 8 number, would you usually get these placards?
11:59:28 9 A. Yes, maybe not every case, but often they were included as
11:59:32 10 well.
11:59:32 11 Q. Okay. If the crime lab technician took them and put them
11:59:37 12 on that roll of film, would you expect to routinely get this
11:59:41 13 placard?
11:59:41 14 A. Yes.
11:59:42 15 Q. We couldn't happen to find this particular one in this
11:59:45 16 case?
11:59:46 17 A. My recollection is we didn't find this one in this case.
11:59:51 18 Q. Okay. But is it investigative material that would be of a
11:59:58 19 concerning nature to you?
11:59:58 20 A. No.
12:00:02 21 MR. NOLAND: Can you go to the next page, Laura.
12:00:04 22 BY MR. NOLAND:
12:00:05 23 Q. What is this document, page 231?
12:00:07 24 A. It's -- I don't recall the acronym chess stands for but
12:00:14 25 it's a part of the Chicago Police Department where the cold

12:00:18 1 case squad has done some investigation on a case that
12:00:24 2 previously was unsolved and they've got reports that they
12:00:30 3 generated and they're trying to make sure that those reports
12:00:34 4 are added to the investigative file as well as to the typed RD
12:00:40 5 to the RD file as well. This was apparently the process that
12:00:43 6 they did to make sure those records were maintained.
12:00:46 7 Q. So this chess memos, there's a few other pages like this,
12:00:51 8 they are not the actual investigation, they are memos to get
12:00:54 9 documents into the file?
12:00:55 10 A. That's correct. It's not the investigative material.
12:00:58 11 It's a memo saying add this material to the file.
12:01:01 12 Q. Mr. Murray, the next grouping of documents that we put
12:01:07 13 together, so we are off the administrative documents, right?
12:01:11 14 A. Yes.
12:01:11 15 Q. I am going to start with a predicate question. When you
12:01:26 16 were working on a case, would you -- was it your practice to
12:01:29 17 in advance of trial to obtain updated rap sheets or criminal
12:01:34 18 history reports on witnesses and defendants?
12:01:37 19 A. Yes. In addition to the material that I accumulated as
12:01:45 20 part of the Chicago Police Department and police department,
12:01:49 21 cases took a while before they got to trial, so I would and
12:01:53 22 the colleagues I worked with, we would routinely update
12:01:57 23 criminal histories of witnesses that we may be calling to the
12:02:00 24 witness stand. Also witnesses that might have been provided
12:02:06 25 to us from the defense or even the defendant himself, make

12:02:09 1 sure we had the up to date rap sheets and provided them to
12:02:13 2 defense counsel before trial.
12:02:15 3 Q. And this grouping of documents that we are about to talk
12:02:19 4 about, can you generally characterize what we are about to
12:02:25 5 look at for the jury?
12:02:26 6 A. Generally background information on witnesses or
12:02:29 7 defendants.
12:02:29 8 Q. Does it have -- does this grouping of pages have
12:02:34 9 information about witness interviews or other substantive
12:02:39 10 information about who did the crime?
12:02:40 11 A. No, it does not.
12:02:42 12 Q. It does have names or people involved?
12:02:45 13 A. That's correct.
12:02:45 14 Q. And did you go through the pages that were currently in
12:02:53 15 the state's attorney's files or that the plaintiffs
12:02:57 16 acknowledge were in the state's attorney's to make sure that
12:03:00 17 the names of the individuals in this group of materials were
12:03:03 18 in those files?
12:03:07 19 A. Yes.
12:03:07 20 Q. So the names would have been available to the prosecutors
12:03:10 21 and the criminal defense attorneys?
12:03:11 22 A. Yes.
12:03:11 23 Q. But we could not locate this grouping of pages in the
12:03:14 24 state's attorney's files?
12:03:16 25 A. That's correct.

12:03:16 1 Q. Does that necessarily mean that these were never in the
12:03:20 2 possession of the state's attorney's files?

12:03:22 3 A. No. Either this original document or the original rap
12:03:27 4 sheet would have been in the prosecutors' file during the
12:03:30 5 course of discovery initially and prior to trial.

12:03:33 6 MR. LOEVY: Objection to the foundation, how he would
12:03:36 7 know that.

12:03:37 8 THE COURT: Overruled. It's a matter for cross.

12:03:40 9 MR. NOLAND: Your Honor, may I switch the ELM0,
12:03:51 10 please, just briefly.

12:03:52 11 THE COURT: Yes.

12:04:00 12 BY MR. NOLAND:

12:04:00 13 Q. Mr. Murray, we talked about whether criminal defense files
12:04:05 14 are necessarily complete or incomplete a little bit. Do you
12:04:12 15 remember those questions?

12:04:12 16 A. Yes.

12:04:12 17 Q. In your opinion, were the state's attorney's files that
12:04:18 18 were provided by the state's attorney's office all necessarily
12:04:21 19 complete?

12:04:23 20 A. No. Again, looking at some of these 20 or 30 year old
12:04:29 21 state's attorney's files, some of them were not complete
12:04:31 22 either.

12:04:31 23 Q. And showing you defense 286, part 1-474, which is an
12:04:39 24 excerpt from the court case, do you remember reviewing this
12:04:45 25 case?

12:04:45 1 A. Yes, I do.

12:04:46 2 Q. In the state's attorney's file in this case were there any
12:04:50 3 street files and GPRs?

12:04:51 4 A. The prosecutors' file did not have GPRs, general progress
12:04:56 5 reports, notes, or street file material.

12:04:59 6 Q. And this document I'm showing you, what is this generally?

12:05:02 7 A. This is a document, a diary or a docket sheet that
12:05:08 8 prosecutors maintained within their file. It was called a
12:05:11 9 blue back because it was a blue colored document that held it
12:05:17 10 all together. So on the blue back, the prosecutors record
12:05:22 11 when the case was up in court, what happened in court, and if
12:05:25 12 they had to do something for the next date in court. On here
12:05:29 13 on the bottom of this document, you can see a court date of
12:05:32 14 June 4th, 1990, in front of judge ray in a and C X 2 means the
12:05:42 15 defendants were present in custody and in court. There was a
12:05:45 16 motion held. The highlighted material, the prosecutor
12:05:48 17 indicates on that day that they received the street file and
12:05:52 18 GPRs, street file and GPRs received.

12:05:56 19 Q. Again, the prosecutor's file that was produced to us in
12:05:58 20 this case, did it have any GPRs?

12:06:00 21 A. No.

12:06:01 22 Q. Then the next page of this blue back, does it have another
12:06:08 23 entry, Mr. Murray, dated June 26, 1990?

12:06:12 24 A. And that is the next court date from the date where they
12:06:19 25 indicated, the prosecutors indicated they received the street

12:06:22 1 files, GPRs. Now they are indicating on this court date that
12:06:25 2 they have tendered complete street file to each defendant and
12:06:29 3 then there's other indications of the next court date.

12:06:34 4 Q. Mr. Murray I think you talked about this earlier, but
12:06:37 5 remind us. Tell us again what's the street file, what's that
12:06:42 6 parlance for?

12:06:43 7 A. Street file was -- it applies to a lot of things. I think
12:06:49 8 it primarily was used with notes that detectives took during
12:06:52 9 the course of the investigation. So it could be notes, it
12:06:54 10 could be general progress reports. It also came to be the
12:06:59 11 investigative file that was maintained at the area, so it was
12:07:04 12 probably inaccurate or sometimes misleading, but it generally
12:07:10 13 referred to the general progress reports and the notes that
12:07:15 14 the detective maintained in the investigative file.

12:07:19 15 MR. NOLAND: Your Honor, if we could go back to the
12:07:21 16 computer, please.

12:07:22 17 THE COURT: Sure. We are going to take our break in
12:07:24 18 a couple minutes just so you know.

12:07:30 19 MR. NOLAND: Thanks, Judge.

12:07:33 20 Laura, going back to this grouping of background
12:07:35 21 material we were talking about, Mr. Murray, Laura, can you
12:07:39 22 pull up page 237.

12:07:40 23 BY MR. NOLAND:

12:07:45 24 Q. Can you highlight -- thank you, Laura.

12:07:48 25 BY MR. NOLAND:

12:07:49 1 Q. At the top, Laura, LEADS responses, can you highlight
12:07:52 2 that, please. And then the name d-i-o-n, d-o-r-n, at the top
12:07:58 3 left.

12:07:59 4 What is this, Mr. Murray?

12:08:00 5 A. It's a response from the LEADS database, the LEADS
12:08:05 6 database is maintained by the Illinois State Police, so all
12:08:08 7 police agencies can check to find out if they're searching for
12:08:13 8 someone, if they just had his name or his date of birth or
12:08:16 9 they might have some sort of other identifying information.
12:08:19 10 So what happened here was a police officer or detective was
12:08:24 11 trying to find information on a Dion Dorn and this is the
12:08:28 12 responsibilities they received from the database, the computer
12:08:31 13 database.

12:08:32 14 Q. And who is Dion Dorn?

12:08:34 15 A. Dion Dorn was the criminal defendant in this case.

12:08:38 16 Q. Does this investigative and material about whether Dion
12:08:46 17 did the crime or not?

12:08:48 18 A. No.

12:08:48 19 MR. NOLAND: Laura, can you go to page 242, please.

12:08:48 20 BY MR. NOLAND:

12:09:01 21 Q. What is this page, Mr. Murray?

12:09:03 22 A. This is the back page of a document, the stamp suspect
12:09:07 23 kind of faint, but it's -- you can barely read it, but it says
12:09:13 24 issued on inquiry, that's the top line, then the date, and I
12:09:19 25 couldn't begin to tell you what the bottom line is. But it's

12:09:24 1 when a police officer in the Chicago Police Department,
12:09:28 2 detective or police officer would request a rap sheet or an
12:09:31 3 arrest report from the other part of the office, the bureau of
12:09:35 4 identification, when they would print up that rap sheet for
12:09:38 5 the police officer, they would stamp it with this and send it
12:09:41 6 to him.

12:09:42 7 Q. And this is in the sees I will Robinson case which is one
12:09:47 8 of the groupings in 43?

12:09:48 9 A. Yes.

12:09:49 10 Q. And what was this? What was this on the back of?

12:09:52 11 A. The back of a burglary warrant arrest report for sees I
12:09:59 12 will Robinson. This case had gone unsolved for a number of
12:10:03 13 years until fingerprints that sees I will Robinson had left at
12:10:09 14 the crime scene were matched into a database, no the Chicago
12:10:14 15 Police Department's database for fingerprints. So the
12:10:18 16 detectives are now trying to find out where this person, sees
12:10:22 17 I will Robinson might live. They ordered an old arrest
12:10:26 18 report, not that old, but one that was already on file to
12:10:29 19 determine, you know, his hate, weight, physical appearance and
12:10:33 20 last known addresses.

12:10:35 21 Q. So in this particular incidence, did this issue on inquiry
12:10:40 22 stamp have any pertinence to the investigation?

12:10:45 23 A. No.

12:10:46 24 MR. NOLAND: Laura, can you go to the next page.

12:10:48 25 THE COURT: We are going to stop. The jury will be

12/07/16 AM

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12:10:52 1 1:10. The lawyers can be back at 1:10 so we can talk about
12:10:59 2 some things. That's where we will pick up.

12:10:59 3 (The trial was adjourned at 12:10 p.m. until 1:10 p.m. of
12:10:59 4 this same day and date.)

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